



Dr. H. G. Burr

A CONTRIBUTION

TO A

PROPER UNDERSTANDING

OF THE

OKA QUESTION;

AND A HELP TO ITS EQUITABLE AND SPEEDY
SETTLEMENT.

BY BETA.

"I will also show mine opinion."—ELIHO.

"He that is first in his own cause seemeth just; but his
neighbour cometh and searcheth him."—SOLOMON.

PRICE 25 CENTS,

Profits to be devoted to benefit of "Oka Indians."

MONTREAL:

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THE OKA INDIANS.

PART I.

Object in Writing—The Seminary Claims long ago Contested—The Purpose of the British Government—How Expressed—The Law Officers of the Crown—Attorney-General Sewell's Opinion—Law Officers of England again Report on the Question—The Argument Stated—The Memorial from Inhabitants of Montreal, &c.—The Seminary's Memoir, &c.—Distinguished Advocates of Paris, M. Dupin—Memorial again Referred to—Act of 1841—The Previous One Disallowed—The Seminary Change their Course—Conflict Follows—Indians Imprisoned—Protestant Mission Commenced.

To write anything more than has been written on the long-pending and perplexing case of the relative claims of the Seminary of St. Sulpice, and of the Indians of Oka, to the Seigniorship of the Lake of Two Mountains, will by many, I doubt not, be regarded as uncalled for, and therefore, to say the least of it, a waste of time; while to others, who believe that the claims of the Indians have not to the present been as fully explained and urged as they might and should be, the prospect of additional "light on the subject" will be hailed with satisfaction and pleasure. Additional light I think I have in my power to throw upon this question; therefore, in furtherance of a speedy and satisfactory settlement, and by it to remove from amongst us both a scandal and a danger, I offer this contribution.

Men of commanding talents and position have, at various times, been employed by the Seminary to explain and defend their views and interests in this case. Others, at the instance of the government at the time, who naturally desired the opinions of men of high legal training on this subject, have written professedly from a disinterested standpoint; and yet, such has been the course of their reasoning, and especially the conclusions they have reached, that the conviction has been forced upon many, that the relative influence of the contesting parties had, consciously or otherwise I would not determine, much to do in prompting and controlling both the one and the other.

The effort to sustain the Seminary's claims dates from the time of the conquest of Canada by Great Britain. Then it was sought by the Marquis de Vaudreuil that the Sulpicians, with the Recollets and the Jesuits, should have leave to sell, in whole or in part, the estates and moveables which they possessed in Canada, and take or send the produce thereof to France. This permission therefore was formulated by the Marquis, and being agreed to by Lord Amherst, the English Plenipotentiary, was introduced as an article of the treaty of capitulation. It, however, was disallowed by the British Government, and never became legalized. But instead of granting the above demand the British Government determined to confiscate all such estates, and to form by them a fund for purposes of education, generally. This determination the Sulpicians labored to prevent, and by persistently applied means were so far successful as to arrest the action the Government had proposed to take. Still, so resolved were the Government upon their course that, in 1765, the Lords of the Treasury sent instructions to Receiver-General Mills, to the following effect: "Seeing that the lands of these societies, particularly those of the Jesuits, were being united to the Crown domain, you are to strive by means of an arrangement with the parties interested in them, to enter into possession thereof in the name of His Majesty; at the same time, however, granting

to those parties such amnesties as you shall judge proper ; and you are to see that the estates in question are not transferred and so lost to the Crown by sequestration or alienation." Again, he was directed to see that " Schedules were drawn up of the landed estates of the divers religious communities, and particulars demanded as to the nature of their constitution, rights, privileges, amount of property, &c., with lists of the several Churches, the numbers of Clergy, amount of incomes, &c., &c.

In 1770, considerable discussion was held by the members of the Privy Council on the proper settlement as to the laws and form of government, &c., &c., which were to be given to Canada. The petitions from Canada, with various other papers on the subject, were placed in the hands of the King's Advocate-General (Marriott), the Attorney-General (Thurlow), and the Solicitor-General (Wedderburne). Marriott's conclusion was that all religious communities, both male and female, should, as soon as their surviving members died out, be abolished. That their estates and revenues should be restored to the Crown, and afterwards employed in educating all the young without distinction of communions," &c., &c., and, further, " To forbid all religious processionings in the streets, to relegate the estates of St. Sulpice Seminary to the Crown domain ; and to cause all (obligatory) Church festivals to cease."

His argument for relegating to the Crown the Sulpician estates was in substance as follows : That the Sulpicians who as principals at the time of the conquest were not resident in person, did not fall under the privilege of the capitulation, nor come within what is termed by civilians the *casus federis*, so as to retain the property of their estates under it. And the reason of this was that they were not in a position to accept a favor as a condition of ceasing their resistance, or objects of distress, or persons who had shown a courage which merited some special mark of favor. Nor could they retire from a country in which they did not live. The Sulpicians at Paris transferred to their brethren in Canada what, it is argued, they had no right to transfer.

From prudential motives, doubtless, the design so far as the Sulpician's estates were concerned, was not carried out: yet their title to them was ever considered by the government as utterly invalid; which view of the case was made to appear on several occasions. One was by an Act in 1774, entitled, "An act for making effectual provision for the government of the Province of Quebec, in North America." The principal objects of the Act were: "To ascertain the limits of that province, which were extended far beyond what has been settled as such by the King's Proclamation of 1763, and to secure to the Roman Catholic clergy, *except the regulars (or members of the religious orders)* the legal enjoyment of their lands, and their titles in their own communion, or from all who professed the Roman Catholic religion." To read the discussion on the above bill in its passage in both the Lords and Commons, as given in the Pictorial History of England, would show to every doubting mind that it was with the most determined purpose the exception against the *regulars* was made, and not by any means was it an oversight, or unintentional circumstance, as the Sulpicians have endeavored, in their Memoir of the Titles of the Seminary, to show.

In 1788, the claim of proprietorship was brought by a movement from the Seminary before the Governor of Canada. One of those conflicts, so many and so bitter between them and the Indians, and which their treatment of the Indians occasioned, had taken place; and they therefore sought to obtain a declaration from the Governor in their favor. The Governor laid the case before the Crown Officers, who declared against the assumptions of the Seminary most directly and emphatically.

Among the reasons the Crown Officers assigned for doing so are the following:—

"1st. The Sulpicians had not power to create one or more bodies of their own members, with power to possess and hold property in Mortmain."

"2nd. The Seminary in Montreal could not show that it had

in itself the legal establishment of an ecclesiastical body, with powers independent of the order of St. Sulpice at Paris, to take and hold property in Mortmain."

And certainly this conclusion is sustained by the fact, that all properties given to the order, even to those in Canada, and for objects to be performed in Canada, were deeded to the Seminary in Paris distinctly and specifically, and that when the Seminary in Montreal was in full operation as such, as declared by themselves. And further, not only were the properties given thus, but the French King's Patent confirmed them in this order: *i.e.*, to the Seminary in Paris. And, again, it was not until after the request that a different course was attempted, *viz.*, that of making over the properties in Canada to the Seminary of Montreal.

In 1804, Mr. Sewell, the Attorney-General of Lower Canada at that time, prepared an able and comprehensive report, in which were again refuted the claims held and maintained with a somewhat desperate determination by the Seminary, and in 1811, the whole subject was referred to the law officers of the Crown in England. These were Sir Christopher Robinson, the Advocate-General; Sir Viedy Gibbs, the Attorney-General; and Mr. Solicitor-General Plumer. Their joint report was to the effect: "That the St. Sulpicians in Canada had not a valid title to the lands transferred to them by the Community of Paris."

The opinion of the Attorney-General Sewell, who for many years subsequently was the Chief Justice of the Supreme Court in Quebec, and justly distinguished and honored for his great ability as a legist, and for his unspotted integrity and uprightness as a judge, is somewhat elaborate. In substance it is as follows:—"The motive of the gift of the Island of Montreal to the Seminary of St. Sulpice, Paris, in 1663, by an association for the conversion of the Indians in that Island, created a trust which was never fulfilled, and the title was bad for *non-user*. The French King afterwards authorized the establishment of a Seminary at Montreal to carry out the

grant. The ownership was in the Seminary of St. Sulpice, and the Seminary of Montreal did not subsist as a separate corporation. The deed of gift, April, 1764, by which the Seminary of St. Sulpice, Paris, assumed to convey the property to the Seminary in Montreal, *is void*. The Island of Montreal being vested in a foreign community, incapable of holding lands in His Majesty's Dominion, the right of property would devolve to the Crown. The estates were public property held by the Seminary of St. Sulpice, Paris, under trust for a particular purpose, and they fell to the Crown by right of conquest. The absence of a right to transfer the property must make the deed of gift null. The right of the property in the Seminary was only that of *administrators*, and not such as would entitle them to convey. The grantees, not being a distinct corporation, were incapacitated from taking under the deed. Without a new charter, the Seminary could not be prolonged after the death of such of its members as were alive at the time of the conquest." Mr. Sewell was strongly convinced "that the rights of the Crown to the property could be enforced in the courts." (*See Lindsay's Rome in Canada*, pp. 358 9.)

At a subsequent period, and when Attorney-General Sewell had become Chief Justice, a case was brought before him in which the Seminary appeared as respondents. The Chief Justice declared against them because, although they pleaded possession, yet such was on "*à titre précaire*"; and further, that although they felt it necessary to prove they were seigniors in possession, it was necessary to prove they were "*seigniors and proprietors*;" but which in his judgment they were unable to do.

In a memorial presented to the Home Government "by the inhabitants and proprietors of the City and Island of Montreal against the assumptions of the St. Sulpice Seminary," there are statements which have an important bearing upon the case I am now discussing. They say:—

"Some further proceedings took place in 1819 under the administration of the Duke of Richmond, the precise nature

of which is not publicly known except in so far as may be judged by the subsequent action of the Government.

"In 1834 instructions were sent to His Excellency Lord Aylmer, to require the St. Sulpicians to surrender the property to the Government.

"In 1836 the subject was referred to the Commissioners of Inquiry, who were unanimously of opinion that the St. Sulpicians had not a valid title to the estates."

At different periods the Seminary has sought to maintain their claims. In a "Memoir" on the subject they endeavour to establish two points: First, that previous to the conquest, as well as subsequently, they had a legal existence. And, secondly, that they had a legal right to hold property. This memoir is a most labored production, and from the wire-drawing and twisting process that is apparent in almost every paragraph, the disappointed reader is compelled to throw it down as a mass of sophistical pleading, and with which even its author, or authors, must themselves have felt dissatisfied.

Next they published what they designate "A refutation of the Crown Officers on the right of the Seminary of Montreal to the property in their possession." This tract is remarkable for two things particularly: How roundly they can abuse a person who fearlessly does his duty, as did Sir James Marriott; and how cleverly they can spin and twist a line to bind down all arguments against them, while in the whirl of the operation they have not grappled with one of any weight or importance.

Following this is an able and very elaborate opinion from M. Dupin, "An Advocate of the Royal Court of Paris, on the Rights of the Seminary in Canada;" and then, although published several years previous to the one by M. Dupin, is "An Opinion of twelve of the most eminent Advocates of Paris touching the rights of the Seminary in Montreal in Canada to certain property." These are remarkably able papers; that by M. Dupin especially. He was one of the twelve of the paper last referred to, which was published in Paris, 18th Aug., 1819.

But as he himself says, "when the undersigned was consulted for the first time on the subject, in March 1819, he had before him none of the documents just enumerated"—["the several memoirs published by either party to the suit now pending between the Seminary of Montreal and Mr. Fleming; also a memoir of the English Crown officers, the analysis of the different pleadings, and the extract from the opinion of one of the judges (Judge Sewell) before whom the said suit was brought together with divers other documents relative to the questions discussed therein,"] "he had only to give his opinion on the merits of the instrument styled, a '*concession*,' executed on the 29th April, 1764, between the Seminary of Montreal and that of St. Sulpice at Paris." Having therefore these documents before him when delivering the opinion bearing only his own signature, dated Paris, 10th June, 1826, he was much better prepared to deal with the whole case than, when with the eleven other distinguished advocates, he was not possessed of them. His paper is a very able one, yet it produced no effect upon the law officers of the British Crown, nor upon the Government, at least so as to turn them from their course; a fact fully established by the declarations made, and the actions proposed several years subsequently, as may be seen above.

A further reference to the "memorial by the inhabitants and proprietors of the Island and City of Montreal," will be in place here, as it throws additional light upon these points which so strongly influenced the Government in its action towards the Seminary; and will assist us in judging more accurately on the matter then, as now, in question:—

"In the year 1663 the Island of Montreal was by a deed duly executed made over to the Seminary of St. Sulpice, in Paris, subject to the condition 'that the domain and property of the said Island shall be inseparably united to the said Seminary, without any possibility of their being separated for any cause or reason whatsoever.'

"In 1667 the Seminary memorialized His Most Christian

Majesty, praying that His Majesty would be pleased to grant to them letters patent to enable them to hold the Island of Montreal in mortmain, and to establish a Seminary in the said Island."

"The Letters Patent were accordingly issued in the month of May, 1667, granting both these requests.

"On the surrender of Montreal to the British Army, several ecclesiastics of St. Sulpice were found residing in that city, but whether legally established as a community is not known and indeed admits of much doubt. To these ecclesiastics calling themselves the community of St. Sulpice of Montreal the Seminary of Paris made over by deed in 1764 (after the cession of the country) the property and estates in this country.

"In the year 1781, on the occasion of their tendering fealty and homage to His Excellency Sir Frederick Haldimand, this conveyance was brought forward as constituting their only titles, although subsequently a prior claim was set up founded on the Letters Patent. As it is now admitted that the St. Sulpicians of Paris had no right to sell or alienate these estates, the only point of enquiry is whether the Letters Patent alluded to conveyed the property to the St. Sulpicians of Montreal as affirmed by them.

"It is almost superfluous to offer a single observation on a document where the meaning is so distinctly expressed. The said donation set forth in the contract of the 9th of March, 1663, is subject to the condition that the domain and property of the said Island shall forever be inseparably united to the said Seminary (of Paris) without being liable to be separated therefrom for any cause or reason whatsoever, and this 'said donation' His Most Christian Majesty accepts, consents to, and approves, willing that it be forever united to their society. There is nothing vague or doubtful in this declaration of the Royal pleasure. The donation was to the St. Sulpicians of Paris, and 'the said donation' is by the Letters Patent forever united to their society.

"The absurdity of supposing that the words '*to their society*' were meant to indicate the St. Sulpicians of Montreal, is still more apparent when it is considered that to listen favorably to the said memorialists, was the moving cause why the Letters Patent were issued; it would indeed be a most singular display of Royal favor, if, as 'the St. Sulpicians of Montreal contend,' the Letters Patent deprived the said memorialists of the donation, instead of permitting them to hold estates in mortmain, as prayed for; such an interpretation of the Royal intention being yet more improbable as implying that the property was bestowed on a community not then in existence, and which there was no certainty would ever be legally established and competent to accept the donation.

"Public documents of a later date put it beyond all doubt that the St. Sulpicians of Paris were the owners of these estates. An edict of 1693, other Letters Patent of 1714, and an arrêt of the Council of State of 15th May, 1716, establish that fact. Their title is also affirmed in leases and deeds of concession executed in this province wherein the St. Sulpicians of Montreal appear in the capacity of agents to the community at Paris; and lastly, by the deed of cession of 1764, wherein it is declared and admitted by both parties that the St. Sulpicians of Paris were the undoubted owners of the property and estates of this Colony.

"The evidence to this point is clear and convincing, and it follows as a natural consequence that the estates in question are lapsed to the Crown by right of conquest, as the property of a foreign society domiciled at Paris at the time of the conquest and cession of the colony.

"The act of fealty and homage tendered by the St. Sulpicians to His Excellency Sir Frederick Haldimand in 1781, and desired by them as an abandonment by His Majesty of the rights of the Crown in their behalf, scarcely merits serious notice. The extravagance of such a pretension will at once be exposed by observing that it rests on the supposition that rendering fealty and homage to the governor of a distant

colony is sufficient of itself to naturalize foreigners ; to constitute a body corporate and ecclesiastical ; to convey the right of holding lands in mortmain, and to dispossess the Crown of estates and revenues worth about £500,000 ; and these important results are also said to have been obtained contrary to the Royal instructions in that behalf, and against the provisions of an Act of Imperial Parliament, 14th Geo. III., cap. 83, excluding the St. Sulpicians from all right, title, or claim, to these estates.

"A reference to the authorities mentioned in a former part of this memorial, and more particularly to the reports of Sir James Marriott and Mr. Attorney-General Sewell, will show that the rights of the Crown in this matter are not dependent on the decision of the law courts, and that the power of the Crown may be legally and properly exercised for the gradual suppression of the ecclesiastics of St. Sulpice, and the acquisition of the estates now in their possession by adopting towards them the same means which have already been used in respect to the Jesuits and Recollets."

Under Lord Sydenham's administration an Act was passed in 1841 which confirmed to the Seminary the title to these estates. An effort had previously been made, under the administration of Lord Colborne, to effect such a confirmation by an ordinance-in-council, but because of its absoluteness it was disallowed by the Home Government. Having failed in that instance the Seminary were now glad to receive the one of 1841, although it contained "*terms, provisoes, conditions, and limitations*" which sufficiently marked the determination of the Government that they should regard themselves still but as trustees, or administrators, of the estates whose titles were now confirmed to them, but only as such. This, if not as they had fondly hoped the ordinance would have been made, they were obliged to accept and subscribe to ; and in it to read the authorized exposition of the British Government's views of the design of the original donors of these properties to the Seminary at Paris.

Shortly after the passing of this Act it became apparent that the Seminary had resolved upon putting a new face on the ordering and management of these estates, that of the lake lands seigniorly particularly. Previous to the Act, and under the old state of things, the Seminary acted as the guardians of the Indian's right; and in that relation took proceedings against all trespassers on these lands. But now they act as masters, proprietors in their own rights; and soon take the needed measures to initiate the Indians into this new discovery. Nor is this all; for no longer desiring the presence of the Indians at the Lake of Two Mountains, they move—successfully move—the Government to set apart for the Indians a block of land (1,600 acres) in a distant and northern portion of the province.

To this newly found paradise of sterility, rock and frost, the Indians refused to go. But just as determined as the Indians were in their refusal to go, just in such a determination did the Seminary put themselves that the Indians should go. The Indians naturally asked why they should be required to leave lands where their fathers had lived and died, and where they had lived since their birth; and the Seminary answered by narrowing the lines of their restriction yet more and more. Land and its timber, which they had freely used for their various wants and maintenance generally, they are now forbidden to use; and the prohibition is enforced by various forms of penalty and punishment.

To compel the Indians to conform to their wishes became now the settled purpose of the Seminary. For this they arranged their policy and applied the means necessary to carry it out. The Indians feeling the lines of restriction and annoyance drawn tighter from time to time became the more restive. Of this complaints were raised; and each party in turn sought aid and relief from the Government. The replies to the Indians showed very plainly that their real condition was neither apprehended nor understood. The Government counselled them to peace and submission to the Seminary; but, as this

was impossible from the course the Seminary had chosen, the counsel was not followed, because it could not be.

The Seminary had never known failure heretofore in working out their plans, and why should they now fail with such opponents as these Indians? This must not be; and, it *shall not be*, if they can maintain their standing.

But the Indians, now driven to a point, also become resolved, and conclude upon a course altogether unexpected by the Seminary. They will abandon the Church of Rome at once and forever, and as—so they thought—the Seminary are on *their* lands as their ministers, by relieving them of such duties as were involved in this relation, so would *they* be relieved of the persecutions and presence of the priests at the same time. With this view of the case a band of the Indians waited upon the priest at his presbytery, and with becoming decorum and definiteness they communicated to him their resolve.

On serving this notice the Indians took all necessary precautions to avoid even the appearance of any intimidating act on their part, and having performed what they considered their duty under the circumstances, they returned as peacefully to their homes as they had left them. Having done no wrong they feared no evil; but in this instance as in others previously, they did not fully count the costs. The priest went to Montreal immediately after the visit made him by the Indians, and deposing that his life had been threatened obtained a *possé* of constables, who with their chief followed him back to Oka. Then, to give the Indians another lesson on the duty of absolute submission *to the powers that be*, they arrested at night, and while in their beds, five of the most prominent of the party who had waited upon the priest, and carried them to the gaol of St. Scholastique.

Tidings of this soon spread abroad, and gentlemen in Montreal, aroused by such an outrage upon these poor Indians, bailed them from the gaol, and engaged a lawyer for their defense.

This led to the commencement of the Protestant Mission among these Oka Indians; and this again to discoveries of the great want and wretchedness to which these Indians were reduced while living on lands obtained for their benefit, and from which the Seminary were deriving a *princely revenue*.

It is important to bear in mind that the Protestant Mission to Oka dates from this time; and was brought about entirely by the priest's own treatment of these Indians. If, therefore, such be a matter of complaint by any one, the Seminary, and they only, are the parties responsible for this circumstance.

But the Seminary are a powerful body; which fact being well and widely known gives them great influence with, not only the members of their own church, but with many others also, who, having strong political fears or aspirations, would not on any consideration have this community set themselves against them. When, again, the Indians are poor and powerless, so that when looked upon side by side with the Seminary, are, in the estimation of many, as mere *nobodies*. When, therefore, their claims are brought up for calculation or adjustment at any time, and it is known they conflict with certain demands or assumptions of this Seminary, it is not difficult to apprehend that they stand at a great disadvantage. That there are those who will put Christian principle and even-handed justice into the scale, no matter who the persons, or what their claims, to be affected thereby, is freely conceded: but that such are a majority of the people—however considerable as a minority they may be—none will say, I apprehend.

With a view to promote a settlement of this case, the Government has at different times obtained from gentlemen of high legal standing, an opinion on the points at issue between the contending parties. There are, it is understood, three opinions from gentlemen thus consulted. Two of these opinions I have had an opportunity of reading; the third, which was the first in the order given, I have not seen, and only know its character from the conclusion which it supplies.

And yet these opinions, although coming from men of great influence in the legal profession, will not, I am persuaded, give any measure of satisfaction to the friends of the Indians. By this it may be surmised, that they are not favorable to the claims set up by such ; and this is quite true. Nay, more I will say, they are almost altogether, two of them at least, adverse to these claims ; yet such of itself would not be unsatisfactory if those claims were shown to be unreasonable and illegal. On such a showing the conclusion would be submitted to, and measures taken accordingly. But that such is not the case, it will be my business to show ; as to this end the present effort is made. Should I accomplish, what I am vain enough to believe I can accomplish, and thus promote an early and equitable settlement of this long-pending and irritating question, I am persuaded that a blot would be wiped from the character of our Government, and a festering danger removed from our community.

I am aware that I hazard much when I say, that it is against the recorded opinions of the Hon. Mr. Langevin, the Hon. Mr. Laflamme and the Hon. Mr. Badgley, that I write thus, in the way of protest. But as I have not taken my position in haste or without due reflection, I am prepared for the consequences, if I be but judged at the bar of fair and impartial reason.

It is true, I again remark, that the above-named gentlemen have given such an opinion on the points at issue between the Seminary and the Indians at Oka ; and each one adverse to the claims set up in behalf of these Indians. But it is also true—and such is material to the case in a considerable degree—that the Seminary had before this given *their opinion* ; and that in strong and pointed language. That Mr. Langevin, who was the first of the three to deliver his opinion to the Government, was uninformed of the Seminary's arguments, conclusions, and strong desires on the matter when he wrote this, may not be supposed ; no more than that knowing such he could be capable of setting up any argument but one in perfect

accord with theirs. To differ from them, he, as a consistent and devoted Roman Catholic, and that of the present and Ultramontane School, would regard as much more than a misfortune, it would be a crime of no ordinary magnitude; while with them agreeing, he would consider as proof of highest demonstration, that he was right both mentally and morally. Therefore, in the most perfect accord with the Superior of the Seminary, Mr. Langevin delivers *his* opinion in the following words: "The seigniory of Two Mountains is the absolute property of the Seminary of St. Sulpice of Montreal, as shown by the title or grant of the 27th April, 1718; by that of the 1st March, 1735, by the permission granted to the gentlemen of the Seminary, by the Treaty of Paris, to sell those seignories and carry away the proceeds to France, if they had chosen to do so; by the 3rd and 4th Vic. chap. 30 (now chap. 42 of the Consolidated Statutes of Lower Canada), and by the Seigniorial Act of 1859," See Par. Returns, p. 40, Letter Ottawa, 26th Oct. 1868.

A few days previous to the writing of the above, the Rev. Mr. Baile had addressed a letter to Mr. Langevin, in which are the following statements: "This seigniory" (that of the Lake of Two Mountains) "was conceded to us upon a title very onerous to us, in October, 1717. Our gentlemen petitioned for it, so as to enable them to transfer the Indian Mission, which they had at their own expense established in our seigniory of Montreal in 1677, at first at the foot, on the mountain; and afterwards at the Sault-au-Recollet in the domain. It was granted to us by the then Governor and Intendant, to enjoy the same forever, in the most ample manner, even if the Mission was taken away from thence, on the conditions that the expenses of the transfer of the Mission should be paid by us; that we should put up a stone building, a church, and erect a fort for the protection of the Indians and the defence of the colony, against the incursions of the Iroquois. We have faithfully fulfilled these conditions.

"The expenses incurred in fulfilling these conditions were

so considerable that, on the 26th September, 1733, the Marquis of Beauharnois added new lands to this seigniority. The King of France, in approving of these grants, added a greater extent, in the depth of the land, as an indemnity.

"Those are our titles; they are so clear that, in virtue of the Treaty of Peace, concluded between the French Crown and that of England at the time of the cession of Canada in 1760, our seigniories were considered as private seigniories, and we had the privilege of selling them and taking the proceeds of such sales to France, the same as any other seignior who did not wish to remain under the English domination. The gentlemen of St. Sulpice did not, however, like to abandon the colony at a moment when the fruits of their sacrifices were most wanted.

"In 1840, the titles of the Seminary of Montreal to those seigniories which were held in property by the Sulpicians of Paris and of Montreal, under the French domination, were confirmed by that famous ordinance which has been the dawning and the basis of the commutation of the seigniorial rights in the whole province. You are aware of the sacrifices we then made."

What the Hon. Mr. Langevin's argument is, I have not had the opportunity of knowing; but his conclusion, which is that most important to be known, is, as seen above, in perfect accord with that of Mr. Baile.

That a Roman Catholic is taught to treat with greatest deference the person and utterances of his clergy, is well known, and, to a certain extent, such cannot be objected against. But it is also known that when a priest, or a number of priests, and those many of them of high authority, speak and act with emphasis and point on a matter affecting the interests of their Church, as have the Seminary of St. Sulpice about the estates they hold, then to dissent from them in thought, much less to oppose them by word or counsel, would be a sin it were difficult if not impossible to exceed in all the catalogue of transgressions which that Church has

chronicled. And assuredly the Hon. Mr. Langevin is not the man to do such a thing; for he has not so learned Christ—nay, not so learned of his *Church*—the teaching of which is often found in striking conflict with that of the Saviour's.

Well but, I may be told, this surely has nothing to do with the merits of the case. If Mr. Baile is right Mr. Langevin cannot be wrong in following him, however closely he may adopt his line of remark, and accept his conclusions.

But this is the very point. Mr. Baile is not only wrong, but wrong in almost every line he has written as given above; and Mr. Langevin's fault is that he has followed him in his errors, and reproduced those errors with the weight and authority of his own name, as a lawyer, and a member of the Government.

Let me point to the leading errors which Mr. Baile has given as in the quotation above:—

"The seigniory was given to us"—he means evidently the *us* of Montreal, which is not true—it was given the Seminary, *in Paris*. "Upon a title very onerous to us." Not so; it only required the removal of that portion of the Seminary engaged in teaching the Indians. The Indians—the other component part of the Mission—could, and doubtless did, remove themselves. "The expenses of the transfer should be paid by us." And what could the expenses of half a dozen priests from Montreal to Oka amount to, will Mr. Baile inform us? "That we should put up a stone building, a church, and erect a fort for the protection of the Indians," &c. Well, and this was all, and for which they had received a grant of *nine miles square of fine land*! But Mr. Baile has exceeded the *truth* in the above statement, as he does when he says, "This seigniory was conceded to us upon a title *very onerous to us*." Will the Reverend gentleman explain how this was?

The statement in the grant, as to what was required of them, is "On condition that they shall bear the whole expense necessary for removing the said Mission, and also cause a church and a fort to be built there of stone, at their own cost, for the

security of the Indians." In the above are the following discrepancies, which the reader will notice; no "stone building" was required of them, and the fort was "for the security of the Indians," simply; showing how both parties—the French Government particularly—felt about the interests "*of the Indians.*"

Then again, after enumerating the things the Seminary were required to do—even to "*the erection of a fort,*" &c., he adds, "we have faithfully fulfilled these conditions;" and yet he knew when he penned the above, that they had built no "*stone fort,*" as for which omission they had to frame an excuse to the French King when they made application for the second grant.

Again this *veracious and accurate* gentleman says: "Our gentlemen petitioned for it, so as to enable them to transfer the Indian Mission which they had, at their own expense, established in our Seignior of Montreal in 1667." But will Mr. Baile say how they became possessed of the seignior and Island of Montreal? Was it not for the very work of which he speaks, viz, the conversion of the Indians? This he will not deny; but if so, what does he mean by the expression, "which they had at *their own expense* established in our seignior of Montreal?" Was it not to mislead? Fye! fye! Mr. Baile, why write after this fashion?

"These are our titles; they are so clear that, in virtue of the Treaty of Peace concluded between the French Crown and that of England at the time of the cession of Canada in 1760, our seigniories were considered as private seigniories, and we had the privilege of selling them and taking the proceeds of such sales to France, the same as the other seigniors who did not wish to remain under the English domination."

That the above is a misrepresentation of the facts of the case is clear to all persons who have made themselves properly acquainted with our history, and that to at a period which should be of interest to every one; to the man especially who aims at anything like a knowledge of the leading events of our country,

particularly. And yet Mr. Langevin and Mr. Badgley have both repeated this error—Mr. Langevin because he would not be thought capable of saying anything that would conflict with a statement, and especially so positive a one, of a distinguished clergyman of his Church. But of Mr. Badgley what shall we say? Why, that he has relied too much upon the source where he got *his* information—a source which his argument points to in other instances besides this, and leaves little doubt upon the mind that the Seminary largely supplied him with the material found in his opinion. Had Mr. Garneau been consulted on this subject—and none will charge him with being devoid in interest for his Church and people—he would have saved them from a mistake which a schoolboy would be censured for making.*

But of the facts of the case the Rev. Mr. Baile cannot plead lack of information. He knows that much of the discussion that was kept up for a number of years between his Seminary and the British Government, arose out of the very fact that such a permission had never been given; but that contrariwise, the Government had demanded, again and again, a surrender of the estates held by the Seminary. And that the Seminary held them was only due to the fact that the Government hesitated to take the extreme step of compelling their surrender; which hesitancy the Seminary evidently regarded as the product of fear, and that the Government did not dare to do as they threatened. Be this as it may, nothing needs to be clearer than that the Government in every instance that the question came before them, declared that the Seminary had no valid title to the estates. And all this the Rev. Mr. Baile, the present Superior of the Seminary, knew full well, and yet his statement as above!

As Mr. Langevin has clearly enough looked no farther for information—at least to him authoritative information—upon this subject beyond the present Superior of the Seminary of St. Sulpice, and found all there that he conceived he needed, so he felt he had no higher duty to perform than to echo the

* See appendix A.

utterances of this dignitary of his Church. But as he has chosen this course he must now bear to be told that his opinion is on a par value with the paper on which it is written, and no more.

The Hon. Mr. Laflamme is the next legal luminary asked to shed light on this dark question, and in looking at his paper one is struck by the absence in those submitted to him by the Hon. Mr. Mills, the then Minister of the Interior, of any written by the law officers of the Crown both in England and Canada, during the frequent discussions upon this subject previous to its settlement by the Act of 1841. This, I think, must be conceded to be a reprehensible omission. Mr. Mills may not have been aware of their existence, neither may Mr. Laflamme have been. But while some excuse may be taken for Mr. Mills, he being an Upper Canadian, none such ought to be received on Mr. Laflamme's account. He is a lawyer, and has lived all his life in the Province of Quebec, where he studied his profession. For him, therefore, to be so uninformed of incidents so important in our history, as not even to seek a perusal of them in forming an opinion on the subject to which they refer, is remarkable indeed, and by no means to his commendation as a legal authority. That he had a vague idea that something had been written which bore upon the question, is made clear by his reference to it. Yet his reference, and especially the way in which he makes it, is utterly damaging of any influence his opinion on this subject can be designed to wield.

He says "Although the right of the Seminary to hold the lands given to them by the French Crown was put in question after the conquest, not by reason of its validity, but on the ground they being a foreign corporation and incapable of alienation to a new corporation, and although the claims of the Indians to the lands in question were on several occasions brought forward, they were invariably disposed of as having no foundation." Just think of this statement, and coming from a legal authority such as the Hon. Mr. Laflamme! He saying

"they" (the questions between the Seminary and the British Crown about the lands of the Seminary) "were on several occasions brought forward," but "were invariably disposed of as having no foundation," when the very opposite is the fact in the case!

But the Hon. Mr. Laflamme, even as Mr. Langevin, is a Roman Catholic, and as such, is bound by considerations which Protestants, generally, have little conception of, to speak and act as their Church directs, and especially in matters of high importance to their Church's interests—as this question of the Sulpician estates has ever been regarded. He had, however, a twofold reason for concluding in this instance as he has done. One, the Church, in the person of the head of the Seminary, had spoken; and the other, Mr. Langevin had given a written opinion, which although not placed before the public—so far at least as I have known—was put before Mr. Laflamme. It was much easier for him therefore, and fraught with far less unpleasant consequences, to follow Mr. Langevin, at least to his conclusions, seeing that he had followed a high clerical authority, than to risk a different result, and for so inconsiderable a class as these poor Indians.

The rule with Mr. Laflamme seems to have been, to magnify everything in his way in favor of the Seminary, until the twig had become in his eyes like a cedar of Lebanon: while everything in favor of the Indian he minifies to the smallest possible dimensions; indeed, until in some instances it becomes an all but invisible point. I will hold this gentleman's paper for services yet to be rendered. For the present I lay it aside. A similar use will be made of the Hon. Mr. Badgley's paper; for, fortunately for the Indians, there is a point from which we can start where most that is adverse in the opinions of these gentlemen will be seen to be altogether unimportant. The only end accomplished by now referring to them is, to show how little influence we should allow them in settling this question, when describing the supposed rights of the Seminary.

That Mr. Badgley has read, and marked with much attention what the Seminary has caused to be written and circulated, there is strong internal evidence to prove. His standing for impartiality and fairness would have been much more flattering, had he but brought up and treated the opinions and arguments of the law officers of the Crown in England and Canada, of which there is good reason for believing he had a perfect knowledge, or, had he made the least effort to show how superior, in his judgment, were the arguments of the Seminary's defenders in the several occasions in which the question had been submitted to them.

One fact quite damaging to his "opinion," as to those of the other gentlemen who have agreed with him, is, that the British Government and their advisers never varied in their findings in any instance from their first declared judgments; and although the Government did not go to the length of compelling the Seminary to surrender the estates in dispute, yet they never failed to deliver a strong judgment that such estates were the Crown's, and not the Seminary's. A consideration of the Act of 1841 will, I think, make this fully apparent.

PART II.

The Passing of the Act of 1841 an Important Event—The Rev. Mr. Baile's Estimate of it—A Material Difference pointed out—Questions Discussed—Terms Improperly Used—Chief Justice Sewell's Opinion—Differs Widely from that of the Seminary, &c.—History of the Conflict of Opinion—The Crown Recedes from its Claims—A Probable Reason—What the Act of 1841 and its Passing Declares—Its Requirements—Henry VIII. Quoted—Seminaryites Challenged—A Phrase Explained—The Question Answered—The Second Question—Statements of Indians' Rights—The Word "Mission" Defined—The Instruction to be Given.

The passing of the ordinance of 1841, now known as the 3rd and 4th Vict. chap. 42, was an important event in the Oka question. It was then that the Seminary of St. Sulpice in Montreal obtained a charter of incorporation, and then, only, it became legally qualified to hold property in its own right—a fact which of itself goes a long way in proving that then, only, would the government recognize its right to such, and retire from the claim which, from the conquest to that period, it had fully and firmly maintained.

"Then," says the Rev. Mr. Baile, "the titles of the Seminary of Montreal to those seigniories * * were confirmed by that famous ordinance." In another instance he says: "that the right and title of the Seminary to that seigniorie were recognized in the most ample and most unreserved manner, in the charter that was granted them in 1840, by the authority of the British Government."

The Seminary and their friends have accustomed themselves, when speaking of the confirmation of their title by the

ordinance of 1841, even as by the original grants, of saying that they had an *absolute ownership* in the estates held by them. The proper idea is, an absolute right or title to these estates. The difference here is a material one, and the Seminary know well how to use it to their advantage.*

A number of gentlemen may be incorporated as a Trust to administer a charity, &c., &c., and because of which act have an absolute right and title to the estates, or property, devoted to such an end. This, it will be seen, is very different from being the absolute proprietors of such estates; for then, and for their own ends, and according to their own will, would they act, none having a right to interfere with them in so doing, much less to call them to account for their conduct. On this latter acceptation of the word the Seminary has acted, and the government has winked at their conduct, and because of the license thus tacitly granted the Seminary has gathered assurance, so that now nothing short of absolute ownership is the idea that will please them. Their wish, however, does not give validity to their claim, and it is to this *as it is*, and not as by them *wished to be*, that we must look.

The questions which the ordinance brings up for discussion, are, first, what is the nature of the titles confirmed to the Seminary by the Act of 1841? And, secondly, what interests were secured to the Indians of the Lake of Two Mountains, by that act of confirmation? Other questions there are which might be framed and pressed as the result of that memorable act; but these are the only ones which at this moment I care to consider or discuss.

First, then, what is the nature of the titles confirmed to the Seminary of St. Sulpice by the Act of 1841?

That the titles were then absolutely confirmed is a fact indisputable. Yet, before this, it is to be borne in mind they had not only been disputed, but declared "void," "without effect," "invalid." This statement, however, is withdrawn, and now the declaration is, "And the said corporation shall have, hold and possess, as proprietor thereof, as fully, in the

* See appendix B.

same manner, and to the same extent, as the ecclesiastics of the Seminary of St. Sulpice of the Fauxbourg of St. Germain lez Paris, or the Seminary of St. Sulpice, Montreal, according to its constitution before the 18th September, 1759," &c., &c., &c.

But now that the property is in their hands, is it in their hands as absolute proprietors, or as proprietors in trust, or rather as administrators, is the question? That there is a manifest impropriety in using the word "*proprietors*," when, beyond a question, the idea of *administrators* of a trust, as stated by Chief Justice Sewell, is the true one, must be admitted. Observing, however, the principle laid down by M. Dupin, "that qualities erroneously ascribed cannot affect the right of any one," and looking into the act for guidance, we shall be saved from all misapprehension through this word in its connection as above.

Adding to the value of the word "*proprietors*" the Seminary append the one "*absolute*," and thus constitute themselves the absolute proprietors of the estates in their hands; and by them the words are employed in their widest application. The Hon. Mr. Langevin joins them in saying: "It," (the seigniority of Two Mountains), "is the absolute property of the Seminary of St. Sulpice of Montreal." The Hon. Mr. Badgley declares, "That the title of the corporation of the Seminary of Montreal has conferred upon that body a valid and absolute right of property in their several seigniories, and constituted that body the sole and absolute owners of the property known as the seigniority of the Lake of Two Mountains." The Hon. Mr. Laflamme's conclusion is in substance the same as the above. And yet in opposition to these declarations, Chief Justice Sewell, in an able paper on the subject, says, "*the estates were public property, and held by the Seminary of St. Sulpice, Paris, under trust for a particular purpose.*" And again, "*The right of the property in the Seminary was only that of administrators, and not such as would entitle them to convey.*"*

*See Appendix C.

The judgment of the late Judge Sewell has this to commend it: It agrees with the original grants to the Seminary of Paris; with the views given by the historian Garneau; with the opinion of the law officers of the Crown, when showing why by the Treaty of peace the religious orders were not allowed to sell or make away with the properties they held; with the reasons given by the Government why the estates should be relegated to the Crown; and, further, with the famous ordinance of 1841, of which so much has been said.

But in order to form a proper idea of the case, let us go back to the state of things anterior to the Act of 1841. Here we discover that a conflict of opinion was waged, and had been waged by the Seminary against the declared opinions of the law officers of the Crown, given on several important occasions; and the repeated expression of purpose by the Government that the Sulpician estates should be relegated to the Crown domain.

Look we at the order in which these Acts occurred:—

First,—There was the refusal of the Crown to grant the 35th Act of Capitulation, by which it was sought to give permission to the religious orders—the Jesuits, the Recollets and the Sulpicians—to sell their properties, movable and immovable, if they chose, and to remove with the proceeds thereof to France.

Secondly,—There was the declaration of Sir James Marriott, the King's Advocate-General, which should be considered that of the Attorney-General Thurlow, and Solicitor-General Wedderburne as well, for they were associated with him in the consideration of the case.

Thirdly,—There was the North American Act, in which as of marked purpose, the religious orders were excluded from the relief to the priests, &c., &c., &c. Again:

Fourthly,—In 1804 was given the clear and very able opinion of the then Attorney-General Sewell; and in 1811 that of the Advocate-General, Sir Christopher Robinson; the

Attorney-General, Sir Viedy Gibbs ; and the Solicitor-General, Plumer. In 1819 proceedings against the Seminary were instituted by the Duke of Richmond. In 1834, instructions were sent to Lord Aylmer to require the Seminary to surrender the property to the Government ; and in 1836 the subject was referred to certain commissioners of enquiry, who all agreed in declaring that the Sulpicians had not a valid title to the estates ; that they were not *proprietors* of them ; that the Crown could recover them through the courts, and that even without a process ; and that so clear was the right of the Crown to these properties that they could proceed at once to relegate them to the Crown domain.

This, let it be remembered, was the state of the question up to the year 1836.

That the Crown eventually receded from its purpose of relegation, and actually conceded these estates to the Seminary, a few years after this, is a fact ; the reasons for which may perhaps be made sufficiently clear by the memorial from certain of the inhabitants and proprietors of the Island and City of Montreal, already referred to.

It will be remembered that a rebellion broke out in Canada in 1837, which reached unto the following year. Of this the memorial remarks : "The district of Montreal, where the St. Sulpicians are established, was notoriously the most disturbed part of the Province, and in no other district did the rebels assemble in arms in opposition to Her Majesty's forces. Nearly all the French leaders of any note—*chefs de Rebellion*—were educated at the St. Sulpicians' College in Montreal, and the number of persons enrolled in the Hunter's Lodges was so great as almost to justify the remark that the desire of expelling British power from the colony was universal with the Franco-Canadians of the District of Montreal. The influence of the St. Sulpicians, although inefficient to check rebellion and to imprint on the minds of the Canadian youth sentiments of loyalty to their Sovereign and attachment to British institutions, has nevertheless been exercised with

remarkable effect in a case where their temporalities only are concerned."

The Memorialists refer to the fact that great numbers of the French *habitants* were drawn into the rebellion in the hope that if successful, all tithes, &c., &c., would be abolished. Yet so great was the power of this Seminary that they prevailed upon a large class of these very persons to refuse their countenance to a petition got up after the Rebellion for the abolition of these dimes, and also to sign one for them; by which their rights to them might be secured. If, therefore, it was argued this Seminary was so powerful as to induce a large portion of the people to act so contrary to an object for the attainment of which they had risen in rebellion, how was it that they not only did not use their influence to prevent a rebellion, but that in their portion of the province the greatest number in leaders and followers were found.

It has been intimated that because of important services rendered the Crown during the Rebellion the Seminary were rewarded by a confirmation of their titles. This looks very like, first, fanning up a rebellion, and then afterwards, by betraying their dupes to the Government, selling their people to buy back a title to their estates.

Be this as it may, one thing is certain, that the Government just after the Rebellion, and for services said to have been rendered them by the Seminary during that rebellion, confirmed the Seminary's titles, and as a consequence have left them in the undisturbed possession of these estates up to the present. Hence, it is evident that the confirmation was to buy off those who could, when they chose, be troublesome and dangerous enemies; but who, under a certain treatment, be made valuable and useful friends.(?)

Yet whatever were the reasons which induced the Government to be thus favorable to the Seminary, that favor was not so bestowed by them as to lead to the conclusion that it was because they discovered they had been in error, and now, having made the discovery, they would recede from their former

avowal of Crown rights. Not so, by any means, was this the case; for they act throughout as masters of the occasion; and with a purpose to show that they would hold the Seminary to its original obligations as trustees, or administrators of the estates they were now about to confirm them in the possession of, and which by the act they would declare was the design of the original donors. This, several acts of the Government at the time fully establish.

First,—By refusing assent to an ordinance passed under Lord Colborne's administration, entitled 2nd Vict. chap. 50, and that because it was sought by it *to make the Seminary the absolute owners of the estates in question, and thus cut off the Indians' rights of which the Government would not listen to.*

Second,—By passing the ordinance of 1841, already referred to, and having put into it, "terms, provisers, conditions and limitations," which ordinance with "its terms," &c., &c., the Seminary was compelled to accept and subscribe to. Thus was clearly established the statement of Chief Justice Sewell: that they, the Seminary, were but administrators of a trust, and not the proprietors of such.

Mr. Laflamme says that "an important modification is introduced into the original grant by this act." That the entire property of the Seminary, comprising all the seigniories, is secured for the joint and several purposes mentioned and defined therein, although they were not specified in the original grants."

But this act of the British Government was an invasion of the Seminary's rights, (as indeed was, by implication, its refusal to confirm the previous ordinance of Sir John Colborne's administration), if the conclusions of the Seminary and the defenders of their claims are admitted. The Government most clearly took the whole arrangement, as well as the confirmation, into their own hands, and virtually said to the Seminary: "This is our plan and purpose; we are determined you shall hold these properties as *administrators*, simply,

and that subject to 'terms, provisoes, conditions and limitations,' as we propose, and to this we require you to give your assent and acknowledgment. This, or nothing, gentlemen. On your acceptance of these our terms, we will confirm and make your title absolute, as was that of the Seminary in Paris. If not, then our purpose of relegation shall hold."

To this proposition, hard to submit to, doubtless, seeing the expectations that had been indulged, the Seminary thought it *prudent to yield*; trusting, as events have since shown they did, that as time passed away, so would from the recollections of most people the real conditions on which the confirmation of their titles rested; and that then the rejected ordinance, rather than the affirmed one, could be used without any fear of detection and exposure. This point they have for some time past felt assured they had reached. The confidence with which their assumptions have been made, and the subserviency of their many followers, have done much in accomplishing this. But it is now hoped that sufficient light will be thrown upon this subject so as to sweep away this foul imposition at once and forever.

By the act of 1841, every farthing of the revenues from their whole estates is appropriated. A strange and inexplicable circumstance this, if, as averred, this Act has made the Seminary the absolute owners of the estates from which those revenues flow. Further, not only is direction given for the appropriation of all the ordinary income from the estates of the Seminary, but, in the event of any surplus, be it much or little, it is to be applied for "such other religious, charitable, and educational institutions as may from time to time be approved and sanctioned by the governor of the province for the time being;" and, it is added, "*And to and for no other objects, purposes or interests whatsoever.*"

Again, as if to make the idea of *absolute ownership* with the Seminary altogether impracticable, (an attempt to assume which, it is clear the Government apprehended might be made,) it is declared that "the sufficient support and mainten-

ance of the members of the Corporation, its officers and servants," is made for them; by which we see that beyond this *they have not a right to one cent of the revenues from these vast estates.* And, as if to make any unauthorized application of these revenues utterly impossible, and that they should ever have before them the fact they were *but the Administrators of a Trust committed to their hands,* the Act of 1841 further declares that "*the said Ecclesiastics of the Seminary of St. Sulpice of Montreal shall, whenever and so often as they may be required by the Governor of the Province, lay before him, or before such officer or officers as he shall appoint, a full, clear, and detailed statement of the estate, property, income, debts and expenditure, and all the pecuniary and temporal affairs of the said corporation, in such manner or form, and with such attestation of correctness as the Governor shall direct.*" That this is not language to be used to persons who are the *absolute owners* of property, and that in a country where the liberties of the subject are respected or acknowledged, the simplest reader can understand. Nay, I question there being a government, or sovereign, however absolute now on the face of the globe, that would think of placing such restrictions on the absolute owners of property in their country. The thing is too absurd for any one to imagine but persons like our Seminary of St. Sulpice, or of any one to accord it to them but those who voluntarily yield themselves to the spell which that Seminary is so capable of exercising.

Mr Laflamme says, so sacred are the rights of property regarded in England that even Henry VIII. did not dare to confiscate the properties of the monks, &c., until he had obtained from them a consent to his doing so. Admitting such to be true, does he think there is less regard to vested rights in our day than in those of that imperious and wilful monarch? If not, will he please to inform us how it was the Government so long maintained their right to confiscate the estates of the Seminary of St. Sulpice? Surely it was not because the Seminary had given their consent to such an act.

The inference is plain and easily drawn, viz., the Government believed that at the cession of 1764, they had lapsed to the Crown. Again, will he tell us how it was, on his assumption,—and as well that of the Seminary, and of the Hon. Messrs. Langevin and Badgley, that the Seminary were the sole and absolute owners of the properties in question,—that the Government, in the Act of 1841, took the position of a *grantor*, and, by the provisions of that Act, made, as he says, “important modifications in the original grants;” yes, and to such an extent as to reduce the Seminary to the condition of administrators? I think it would puzzle this erudite lawyer, even were he aided by the Seminary and the Honorable Messrs. Langevin and Badgley, to give consistent answers to these questions. I am aware the Seminary are adepts at *wriggling*, but here they are mastered. The only answer that can be given to the above is, the Government felt they were the owners of the property and the masters of the occasion, and therefore they would maintain their rights and act accordingly. And especially would they do so as they knew they were dealing with men of most accommodating principles and of easy consciences, therefore they would so lay their lines and tie their knots, that with anything like prudent supervision by the Local Government, the Seminary would be kept straight and up to its duty. If since then the Canadian Government has thrown down the lines and allowed the Seminary to do as pleased them, and by which immeasurable injury has been perpetrated on the poor Oka Indians, the blame of this is not with the British Government. And those, therefore, through whom the injury and blame have arisen, should now arise and make the only atonement possible by putting the Seminary down, and the Indians up and on, the rights and immunities which were then, by the Act of 1841, as by the original grants, made and secured to them.

The oft quoted passage—“*even if the mission be removed,*” i.e. from the Lake lands, has a bearing which seems not to have come within the apprehensions of the Seminaryites. They, ever intent upon looking only at one side of the question,

and that one the Seminary's, have not imagined could have any bearing in favor of the Indians. But Mr. Laflamme himself, helps us to a right apprehension of the design of this clause. He says there was put into the deeds by which lands were given the Jesuits in behalf of the Indians, the following: "that in the event of the lands being abandoned by the Indians they should revert to the Crown." In the case of the Sulpicians a clause materially different was put into their grants. But why? because, as the lands in the latter case even as in the former, were given for the Indians, the inference would be that without such a clause should the Indians leave the Lake lands, they must revert to the Crown. From this we have the following inferences:—

1st,—That as such a clause was never put into grants of seigniories for the French colonists, because unnecessary, it is plain this seigniority at least, was designed for the use, for the exclusive use, and benefit of the Indians.

2nd,—That in the event of these Indians,—"*the Mission*," removing away from the Lands, then the Seminary would be allowed to settle them with French colonists; or it might be, with other Indians.

3rd.—As these Indians—in the only and proper sense of the word *Mission*, in this connection—have not moved away, therefore, the use of these lands, to the utmost of their need, for settlement and maintenance, is secured to them even by the only consistent interpretation which can be given to this sentence, though often through a manifest perversion of its import, quoted against them.

Therefore to the question:—What is the nature of the titles confirmed to the Seminary of St. Sulpice by the Act of 1841, known as the 3rd and 4th Vict. chap. 42? I answer: It secures to them, their successors and assigns, in full property as trustees and administrators, the seigniority and Island of Montreal; the seigniority of St. Sulpice, and that of the Lake of Two Mountains, according to the "*terms, provisos, conditions and limitations*," of said act, "*and to and for no other objects, purposes or interests whatsoever.*"

The second question proposed for discussion, is, what interests were secured to the Indians of the Lake of Two Mountains seigniory by the Act of 1841 ?

According to the Seminaryites these interests are small, very small indeed ; in some instances almost altogether invisible.

The Rev. Mr. Baile says : " The Indians whom we have always treated as our children are, therefore, on our lands ; they have, and can only have, but the titles which we think proper to grant them." (The grossness of this assumption is quite noticeable.)

Mr. Langevin says : " It is found that the titles of the seigniory of the Lake of Two Mountains, and the acts of Parliament relating thereto, give to the gentlemen of the Seminary of St. Sulpice, Montreal, the absolute ownership of the said seigniory, and consequently the Algonquin Indians have no rights of property therein."

Mr. Laflamme declares : " That the claim of the Indians is justified by no recognized principle of law." And

Mr. Badgley states : " That the Oka Indians have not and never had any lawful proprietary claim in the property of the said Lake seigniory."

The statements of these gentlemen are good and irrefutable only on the ground that they had made good their conclusions ; that the Seminary were the *absolute owners* of the estates in question. But as I have shown that the idea of absolute ownership under the circumstances of the Seminary of St. Sulpice is out of the question, if not an absolute absurdity, therefore the statements amount to nothing so far as the Seminary and the Indians are concerned.

Still, it is admitted,—that in one sense,—because the law treats the Indians as *minors*, they cannot be properly regarded as having lawful proprietary claims on the property of the said seigniory of the Lake lands. Yet if the Seminary be but administrators of the estates which they hold but in trust, then is it clear, that not only in the Lake lands, but also in

those of the Island of Montreal (for these were given the Seminary for the conversion of the Indians,) these Indians have a large and unquestionable interest, even to the most ample means for settlement and maintenance.

On several occasions the fact has been forced upon our attention, that in every thing written by the gentlemen whose opinions we have been considering in which the claims of the Seminary are touched, they are drawn out in their largest possible, or imaginable proportions; while those of these Indians are reduced to the smallest point conceivable.

Yet we may be glad to find that the act, with its documentary elucidations, is before us, and that we are not dependent upon these expositors for a correct apprehension of the merits of the case. We turn therefore to the act, and from it we gather the following :

"And to and for the purposes, objects, and intents following, that is to say * * * *the Mission of the Lake of Two Mountains, for the instruction and spiritual care of the Algonquin and Iroquois Indians.*" The interpretation given to this, in substance is the following, that in keeping open a school for instruction and a Church, with its required priest, or priests, for spiritual care, is all the act makes provision for from the Seminary; and that even this is forfeited by these Indians in having become Protestants.

But Mr. Laflamme says,—and he more than once has said that which helps our cause, although undesigned by him doubtless when doing so,—“The statute confirming the above grants,” (the original grants to the Seminary) “has not subtracted from, nor added to any of the obligations of the grantees towards the Indians.” We were quite aware of this fact before Mr. Laflamme stated it, and it is quoted to show that Mr. Laflamme had principles of law and facts before him, even while failing to give them their proper significance and bearing:—“Therefore, what rights the Indians are acknowledged to have had before the passing of the act of 1841, were not destroyed by that act, while the admitted rights and usages

antecedent to that act must be taken to explain its design and application."

Our first duty is, to learn the accredited import of the word, "*Mission*." How did the Seminary and others use the word; and what meaning did they thus practically give to it?

In the application of the Seminary for the grant of the Lake lands, they say, "it would be to the advantage of the *Indian Mission* of Sault au Recollet, * * to have the *said Mission* transferred * * * to the lands of the Lake of Two Mountains." In the removal of *the Indians*—the *Mission*—being removed from the city they would have fewer temptations to drunkenness, and would serve as a barrier against the incursions in time of war."

In the grant of 1717, in reply to the application above,—the term is used in the same way with the words added:—"Even if the *said Mission* be taken away from thence." "That the *Indians of the Mission* of the said Lake of Two Mountains."

In a letter to the Hon. Mr. Langevin, 9th Nov., 1868, the present Superior of the Seminary says: "Since about 200 years past *the Mission* has been established on our domain of the seignior of the Lake of Two Mountains." "In keeping up of the *New Mission* becoming every day more onerous, the produce of the hunt not being sufficient to supply the wants of the Indians, we created farms around our domains, when these will yield a plentiful crop, they will suffice to meet the expenses of *the Mission*."

In the above extracts, it is clear that while the idea of a *Mission*, as comprehending two classes of persons—the teachers and the taught,—the Indians are the only prominent parties referred to. And that it would be the merest folly to regard the term simply as meaning a *place* kept to impart instruction, &c., in which but one party may or is likely to be found. This idea, although having with it the weight of Mr. Laflamme's name, we must put aside as utterly worthless.

But if the estates of the Seminary have, by the act of 1841, placed upon them, as a perpetual charge, *the Mission* of the Lake of Two Mountains, and by this is understood the Indians as a leading component, and essential part of that term, then by what reasoning coming from men having any pretensions to sense or justice, are the priests to be so provided for as to give them the whole of these lands, while the Indians are to have absolutely no part or share in them? Indeed, in the fact that a "sufficient support and maintenance" of the entire Seminary, servants and all, is otherwise provided for by the act, it becomes a question if the Indians, and they only, be not meant in the words, "*To and for the Mission of the Lake of Two Mountains.*" It is certainly a curious specimen of reasoning which leaves the Indians altogether out of this provision; and of the reasoner who has the assurance to tell an intelligent public that the teaching priests are the only ones provided for; and that for such provision is set apart a country eighteen miles square, having now in it seven parishes, with their villages and towns, &c., &c., and on which for the Seminary are cultivated some twenty-five large farms. Surely impudence of assertion has rarely, if ever, surpassed this.

It may not be amiss here to ask the Seminaryites what kind of instruction the Indians were to have given them at this Mission? Would they say that such as the district school imparts to the children of the village is all that is intended? This, I apprehend, is all the microscopic vision of these gentlemen can see in the ordinance. But from their liliputian conceptions we turn to those of the French king and Government, many times given by them, in the early settlement of this country. By these we learn the instruction they designed for the Indians was such as "To render the Indians stationary in their habits of life, and as well to accustom them, if possible, to French customs and laws." These were Champlain's ideas of instruction for the Indians.

In the establishment founded by M. de Sillery, "he arranged for habitations and grounds for the converted Algon-

quins and Montagnais, who could be induced to leave their wild habits of life and take up their residence near to their Jesuit pastors." Of Madame de la Peltrie, who founded the Ursuline Convent, it is said, "This lady's determination to go out to New France, and to devote her property to the purpose of educating the daughters of the French settlers, and of the savages." In the Jesuit relations we are asked, "Is it not a highly commendable sight to behold soldiers and artizans, Frenchmen and savages, dwelling together peaceably, and enjoying the goodwill of each other."

It is evident from the above extracts, and many more such which are found in the histories of the early settlement of Canada, that the instruction designed for the Indians was such as would lead them to a Christianized civilization, and thus fit them for the privileges and responsibilities of the ordinary French settler. In order to this they were to be drawn away from their wandering habits of life to those of quiet husbandry; and for which any reasonable amount of land was placed at their acceptance.

Again, the idea of their being treated as minors was not then in existence; for we are distinctly told, that "the prevalent desire in France at the time for the propagation of Christianity, by the aboriginal inhabitants of the colony to the Roman Catholic faith of the kingdom, in favor of which the letters patent of the company declared that the Canadian-born descendants of French inhabitants of the French colony, *and the Christianized savages should be held to be natural-born subjects of France, with every privilege belonging to that right without requiring letters of naturalization therefor.*" So greatly were the men of those days inspired with a zeal for the Indians of the country that Champlain is said to have exclaimed: "It is a more glorious thing to secure the salvation of one soul than to conquer an empire."

Even Mr. Laflamme unwittingly renders important testimony on this point. He mentions several instances in which lands were given to the Indians through the Jesuits. But

because they were given in *franc alleu*, and not by seigniorial tenure,—as if such were material to the object of the argument—he concludes against the claim instituted in favor of the Indians. Nevertheless he says: “And such of the land within the seigniority as had been granted to French settlers was reserved, but the rents were transferred to the Jesuits for, and as the property of the Indians.” Then of two other grants—one of them at Caughnawaga—he remarks: “These grants instead of being made as a seigniority, are made directly and absolutely to the Jesuits for the Indians, and for their *settlement and maintenance*, and with the condition that when such lands shall be abandoned by them they shall revert to the Crown.”

There are several points worthy of special notice here.

1. That while a title could be “made directly and even absolutely to the Jesuits,” it was at the same time made for, and in behalf of the Indians, and subject to the condition of reverting to the Crown if abandoned—not by the Jesuits, but *by the Indians*.

2. It is made clear by the above, that “*settlement and maintenance*” on these lands for the Indians was the object of the Crown of France. Then why, I ask, should such be denied the Indians on the Lake lands?

And 3. That the Jesuits were but *administrators* of the lands which they held in trust for the Indians. Confirming a statement made in a memorial addressed some year and a half ago to the Government at Ottawa, by the Civil Rights Alliance, and drawn up by their Council—Messrs. Doutre and Maclaren. The statement is as follows: “We do not now undertake to define what a Mission meant at the dates of these concessions, but the facts made patent by these deeds are: At the time the first deed was prayed for, the Seminary was burdened with the Indian Mission, then located at *Sault-au-Recollet* in their seigniority of the Island of Montreal. The concession was not asked, nor granted for the benefit of the Seminary, but for that of the Indians exclusively, as long as

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they would remain there; the deed contains a kind or entail in favor of the Seminary, in case the Indians should either migrate therefrom or become extinct from any cause, according to the laws of the Province of Quebec, at the date of the concession deeds, as well as at the present time, the Indians were constituted and are still *grevés de substitution*, with all the rights attached to that quality. The Seminary as *appelés à la substitution*, have no right whatever, except that of supervision to prevent waste." In another part of this memorial is the following, showing how closely its writers draw the resemblance between the Seminary and that stated by Mr. Laflamme of the Jesuits. "The Seminary holds the same position as the Dominion Government towards the Caughnawaga Indians and other tribes," (having taken it doubtless because of the suppression of the Jesuit order.) "And are bound to deal with their wards as the Government are dealing with theirs—that is, to turn the whole income and productions of the seigniority to the benefit of the Indians, including the mines or quarries, if they exist, the produce of the forest without waste, the income derived from pastures, the constituted rents of all conceded lands, representing the seigniorial *cens et rentes*, and the indemnity, paid by the Government for the abolition of the *lods et ventes*."

In the treatment of the Indians, as it is seen the French authorities and leading men in the colony designed and desired they should be treated, there were motives commercial and military, as well as those of a benevolent and Christian character, which moved them.

Those of a commercial character are given by Parkman in the following words: "The complete conversion of the Iroquois meant their estrangement from the heretic English and Dutch and their firm alliance with the French. It meant safety for Canada, and it ensured for her the fur trade of the interior freed from English rivalry. Hence the importance of these Missions, and hence their double character, while the Jesuit toiled to convert his savage hosts, he watched them at the

same time with the eye of a shrewd politician agent, reported at Quebec the result of his observations, and by every means in his power sought to alienate them from England and attach them to France."

The warlike policy that pointed to the settlement of the Indians and their adoption of French modes of living are of frequent reference. The Seminary did not forget to use this potent argument when applying for the Lake lands. They intimated to the French King that the Indians "would serve as a barrier against the incursions in time of war."

Of Champlain it is said, "recollecting the many efforts hitherto made by France to defend Canada, he sought to attach to her interests the native tribes, to whom he sent missionaries to preach the Gospel."

Of Maisonneuve, Mr. Garneau says: "The dangers attending the formation of an outlying settlement daunted him not, and he hastened, in the year 1642, to lay a foundation for the settlement of Montreal, the few buildings he erected on the site laid out, he surrounded for defence with wooden palisades, and he named the infant city *Ville Marie*. He then began to gather around the place such of the neighboring natives as had been christened, or desired so to be; wishing to teach them the acts of civilization, beginning with the culture of the soil." Quotations in any number like the above could be drawn from Garneau, and other historians of Canada. These however show very distinctly:—

1st,—That the conversion of the Indians to Christianity, as professed by the Roman Catholic Church, was an object of leading moment to the French authorities.

2nd,—That to promote such, and to render the fruit of it serviceable to the colony a strong effort was made to induce the Indians to settle on lands set apart for them.

3rd,—That lands were freely granted for such purposes, while to encourage the Indians to settle upon them, they were to be treated as naturalized subjects of France. And

4th,—From the above the inference is plain and clear, that

to have refused lands to Indians, being disposed to settle on them, and especially having received such from the Crown for this purpose, would have involved the charge of opposing the wish of the King and of the people, generally; and have led to a prompt and complete confiscation of all lands they had received from the Crown for such purposes.

Inasmuch then as the Seminary of St. Sulpice of Montreal have never treated the Indians on the Lake lands as the purpose of the French King and government, expressed in many ways and instances, have shown that purpose to be; nor since the passing of the Act of 1841, as by that act the intention of the British Government is gathered, therefore, they should be compelled to surrender to the Crown all lands which were conveyed to them in the interests of Indians, generally, and of those on the Lake lands particularly; and that measures be taken as speedily as possible to have the original design of the donors fully and faithfully carried out.

An effort is made to show that as the Indians have left the Roman Catholic Church the Seminary are now, thereby, relieved from all further obligations or duties towards them. This, like almost all that has been written to the prejudice of the Indians rests upon certain assumptions, which, being unfounded, are misleading and vain. The assumption is, that the Indians renounced the Roman Catholic Church without a good and sufficient reason for doing so. But such is not the case. The facts, of which there are many, abundantly prove that the conduct of the priests of the Seminary actually drove them away from their Church.

And here it may be said with perfect truthfulness, that the facts as to the Indians' case and conduct are without a parallel; for who ever heard of an aboriginal people brought to embrace Christianity and kindly treated by their teachers, afterwards rising against those teachers and leaving them, almost in a body, and going over from them to an antagonistic creed and church? The Seminary had these Indians under their exclusive care and management for over two centuries;

and that with every means necessary supplied, that the Indians might not only be converted to, and established in, the Christian faith, according to the Roman Catholic Church, but settled on lands abundantly provided for that purpose; on which to obtain a suitable maintenance, and even a reasonable prosperity. But during all this time a policy was pursued by the Seminary with an evident purpose to disinherit the Indians and absorb the seignior into their own possession. The policy was so evident to the Indians that they complained of it again and again to the Government. After the Act of 1841, the Seminary seeing they could now talk of title, and, one recognized and acknowledged by the Government itself, set themselves to act the part of proprietors, and that so undisguisedly and tyrannically, and with so evident a purpose of driving the Indians away altogether, that, aroused by such a display of deception, fraud, and cruelty, and concluding that a priesthood who could perpetrate such acts, and a Church which could tolerate and even encourage them, could have no just claim to the Christian name and relation, these Indians renounced both one and the other at once and forever. And yet this fact, so condemnatory of the Seminary, and so natural and proper on the part of the Indians, is held up to the advantage of the Seminary and to the prejudice of the Indians! Wonderful logic! truly; an astonishing deduction from plain and simple premises! Surely some extraordinary influences, such as seminaries of Romish priests know well how to use, must have been in active operation in this instance, or such a conclusion in favor of this Seminary and to the prejudice of these Indians would never have been thought of.

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PART III.

What is Designed in this Discussion—No Wavering in the British Government—Important Assumptions Established—An Indictment Laid—Counts, Deception, Fraud, Cruelty—How Proved—A Recital of Facts Startling and Many—Case of Firing the Church—Indians Charged—The Probabilities Strongly in their Favor—Judging from Probabilities the act much more likely to have been by some one or more of the Seminary's Creatures.

I do not wish to be understood as having attempted to disprove the arguments of Messrs. Laflamme and Budgley, by which they had defended the claims of the Seminary to the Lake lands. Yet I would have it admitted that I have shown the statements and assumptions of the head of the Seminary on this subject to be altogether contradictory of facts, and that Mr Langevin, in having followed so closely that gentleman in his statements and conclusions, has given a much stronger evidence of deference to priestly authority than a desire to be regarded a reliable authority on this question.

I have also shown that the Governments—Imperial and Colonial—never indicated the slightest wavering in judgment or purpose as to the course they would pursue in the matter, from the time of the Conquest to the settlement by the Act of 1841, and that through all this time they were in direct opposition to the assertions of the Seminary and the opinions of their legal advisers. That in this constancy of conviction and of unwavering purpose, they were guided by their law officers in England and Canada. And it is noteworthy here, and should be borne in mind, that the opinions of the law officers of the Crown were given after, as well as before, they

had been duly informed of all that the Seminary, and the distinguished Parisian advocates employed by them, had written on the subject.

From the "memoir," and the "refutation," by the Seminary much could not have been expected; for these productions are scarcely respectable special pleading efforts; but of the "Opinion of twelve of the most eminent advocates of Paris," and especially that of M. Dupin, advocate of the Royal Court of Paris," the former in 1819 and the latter in 1826, too much cannot be said; they are masterly productions, and worthy the names they bear. Yet these did not move the Government to yield its convictions or to change its purposes. Nor are we surprised at this after reading but a bare outline of the arguments of the law officers of the Government. Such being the case, neither Mr. Laflamme nor Mr. Badgley should feel unduly humiliated when told that they had not at all succeeded in their efforts to sustain the Seminary's claims, when such advocates as those employed by the Seminary in Paris had failed, and that completely.

Further, I will assume to have shown that the conduct of the Government, first, in rejecting the ordinance of 2nd Vict., chap. 50, because it gave absoluteness to the Seminary's claims, and had omitted the clauses in favor of the Indians; and again, secondly, by passing the subsequent one of 3rd and 4th Vict., chap. 42,—in which are "*terms, provisoes, conditions and limitations*," and to which they required the Seminary's agreement and acceptance, proved most clearly that the Government acted as *grantors*, and not simply as one of two parties agreeing to, and arranging for a settlement of conflicting claims. And, again, that the Seminary, in accepting a settlement by an ordinance in which were terms, &c., &c., of the nature these bear, and as tendered by the Government, and especially in the uncomplaining promptitude of their acceptance, virtually and substantially confessed to these facts in all their weight and fullness of import and bearing.

Again, I claim to have shown that by the Act of 1841, as

by the expressed wishes, purposes and designs of the French King and Government, and the leading men of the colony, lay and clerical, that the conversion and suitable settlement and maintenance of the Indians was a leading feature of their policy, and to promote which full provision in land grants was generously and judiciously made.

And yet, with all these facts before us, what shall we say of the conduct of the Seminary of St. Sulpice towards the Indians of the Lake lands? What shall we say? What but that by a course of dishonesty and selfishness they have laid themselves open to the most telling censure; and that now an indictment should be brought against them, and they compelled to surrender again to the Crown the lands they have so perverted from their original object,—the lands not only of the Lake of Two Mountains, but of those of the Island of Montreal, as well.

For that both these estates were placed in their hands to be administered in the interests of these and other Indians, is as clearly established by the testimony of history as any facts can be.

In order to effect so important a change—the deliverance of these poor Indians from their Egyptian bondage and inhuman treatment—I propose the following indictment, and which should be pressed against the Seminary with all becoming determination and vigor.

The *Indictment* is one of three counts, viz, *Deception, Fraud, and Cruelty.*

1st Count—Deception. This has been practiced on the Hundred Associates who first made over the grant of the Island and seigniory of Montreal to the Seminary of St. Sulpice. Their object in doing so is given as follows: "That the said Associates, in their quality aforesaid for the promotion and in consideration of the conversion of the Indians of New France have given and do give by these presents, by pure, simple, and irrevocable donation, to take effect during the lives of the parties, to the priests of the Seminary of St. Sulpice, * * *

*and the said parties have agreed that after the charges herein above-mentioned shall have been paid * * for the preservation of the island and the continuance of the work, there shall remain any portion of the revenue arising from the property hereby ceded, such remainder shall be employed for the advancement of the work."*

Mons. Dupin informs us that "the Associates as a society was composed of many individuals, priests as well as laymen, for the conversion of the Indians of New France." "But in what manner," Dupin asks, "were these letters patent" (the Royal assent and authority for the concession) "themselves demanded and obtained?" And he answers: "It was made for an object clearly pointed out, for the promotion and in consideration of the conversion of the Indians in New France, the whole was consecrated to this work; and even in case of excess or increase of revenue, such excess or increase was to be employed in like manner."

And he adds, "The whole principle of the donation was exclusively destined to the accomplishment of the work pointed out."

"The Letters Patent," which Mons. Dupin says, "are the complement of the Donation"—as without such the donation would have had no effect—declare, "For these reasons, * * * we have permitted, &c., &c., them by these presents, to erect a Seminary on the Island of Montreal, there to labor, * * * on the conversion of the Indians."

But shall we ask here how long this seigniorship and Island of Montreal were used in the interests of the Indians? These lands we are told were consecrated to God and *this work*, yet in a short time after being so used, a plea was raised to remove the Indians to another place, and never since, now for over one hundred and fifty years, have the lands of the Island and seigniorship of Montreal been used by the Seminary as originally designed.

It is almost needless to repeat here that the grants of 1717 and 1733 were asked for, and in the interests of the Indians,

and that as asked for, were so granted. No names but those of the Indians, and of the gentlemen of the Seminary, were recognized or mentioned as the grantees—and those of the Seminary only as applicants for the Indians. But have they been used for the Indians? As long as it was necessary to keep the Indians on these lands to give a coloring to their possession by the Seminary, so long were they allowed to live on them—but only then in a fretted and starving condition. But so soon as the Act of 1841 had given any virtue to the Seminary's title, then, as pretexts were found for removing the Indians from the seignior of the Island of Montreal, so were reasons discovered for driving them from the Lake lands, and the Government was moved, and successfully, to grant other lands for this object.

In view of all this there is something especially repulsive in the cant and affected concern for the Indians which the Seminary manifest in their "Memoir," when appealing deplorably against the Government's purpose of confiscation. They say, "If the subject has but little of what is agreeable in it, it is yet of the highest interest to the Province, which either *through its poor, its hospitals, its schools, its colleges, or its Indian inhabitants*, reaps the chief share of the benefit of the said property." To the poor, the hospitals, and the Indians, the benefit of this property is small indeed. It would be well if the present head of the Seminary would publish the amount from their princely revenues which goes to either of the above objects. The account, however, would have to be considerably more in accord with truth than the one given the Parliament a few years ago, of what was done for the Indians; for it would be a task which the whole Seminary would fail in accomplishing, were they required to show one particle of truth in the whole return, so far, at least, as the Indians were concerned.

Then, as to the poor, let the noble and princely donation of the great sum of \$25 given about a year ago, and when Montreal was in great straits to make some provision for the hundreds

of suffering poor in their midst, and to do which were giving to the utmost of their ability, speak. From this great and wealthy society a donation of \$25 was dribbled out; and so affected were the charitable committee by this expression of niggardliness, that but for a far greater concern for the feelings of the Seminary than had the Seminary for the poor, or for their own credit as professed followers of the benevolent Saviour, they would have returned it back to them with some expression of the indignant feelings it had created, and which was freely expressed at the time.

The "Indian inhabitants" are said to "share in the benefit of the said property,"—but how? will the Rev. Mr. Baile explain?

But while the Seminary took these lands—the Island of Montreal and seigniory of the Lake of Two Mountains—for the conversion of the Indians, and agreed to employ them fully for this object (and such was the understanding of the French King, the French people, and the Hundred Associates), and that conversion meant *to the Roman Catholic faith*, yet their conduct towards these Indians has been such as to compel them to renounce the faith of the donors; and thus, through the deception practised by the Seminary, the Indians have been driven away from the faith of the Church of Rome instead of being held to it.

Again, another form in which this deception has been practiced is in circumventing the purpose of the French King in preventing these religious orders from making such acquisitions in lands, &c., as he knew they were bent upon making, and which he felt it important to prevent. In order to do this, Louis XIV., the King by whom the grant of the Lake lands were made, published an Arrêt of his council of the most stringent character. In the 1st Act he prohibited the formation of any order in either France or its colonies without his express permission conveyed by Letters Patent. And in the 9th Act he says, "We declare to be null all establishments of the kind described in the first article." He issued a prohibi-

tion that no acquisition either of houses or lands should be made by these orders without his express permission in writing, under penalty of escheat to the domain of the Crown." But from the first this Seminary of St. Sulpice set itself to circumvent the King's prohibition by getting into its possession vast estates, the professed object being one thing, and the real one, as since fully manifested, the very opposite. Here then, the case of deception as practised by the Seminary, first, on the Associates; second, on the French King; and third, upon the Indians, is made out. And especially is it so, when the great and ruling object of conversion to Christianity, as held by the Roman Catholic Church, for the Indians, is considered; and how this Seminary has driven these Indians from their Church, and to renounce forever the faith which the French King and the Associates held with so much deference and strength of conviction.

The next Count in the Indictment against this Seminary is, that of *Fraud*,—

If a thing got from another under false pretences, is fraud; or, if a thing got for one object, and, subsequently is employed for another, and that in express opposition to the will of the donor, is fraud, then in both these instances has the Seminary of St. Sulpice practised fraud on the French, the original donors of these estates; on the British Government, who sought by the Act of Confirmation in 1841, to secure the application of them to and for the persons and objects for which they were devoted; and on the Indians of Oka, for whose benefit, in a particular manner, these lands were given and set apart.

The Seminary of St. Sulpice received the Island and seigniory of Montreal from the Associates and King of France with the acknowledged and well understood object of employing them then, and subsequently forever, for the conversion and benefit of the Indians. But they shortly afterwards, on a plea raised by themselves, removed the Indians from thence, and never since have they appropriated these lands, or any of the income from them for the benefit of the Indian tribes, as

they were bound to do when these lands were placed under their trust and management.

The removal of the Indians from the Seigniory and Island of Montreal at the time and under the circumstances it was done, go far to show, and the complete alienation of these lands from the original objects since then, to prove, that the Seminary never really designed to carry out the object and purpose for which these lands were entrusted to them; and in this we see a fraud practised on the Associates and on the King of France.

Again, as the Seminary obtained the Lake lands originally for these Indians, and for them only, but since then have not only denied all right to the Indians in them, but by ceding the larger portions thereof to others than these Indians, and by keeping considerable portions of them for their own use and benefit, contrary to the express purpose, as clearly indicated in the original grants, and otherwise by *arrêts* of council, many times declared, they have practised fraud upon the King of France and upon the Indians for whose special benefit he entrusted the Seminary with the Lake lands.

Then as the British Government confirmed the title of these lands to the Seminary, with the most explicit direction for their application and use, and as the mission of these Indians was one of those objects (properly so because most prominent in and most amply provided for by the original grants), so we infer that, by the course which the Seminary have pursued in ignoring the Indians' rights altogether, they have practised fraud herein, alike upon the British Government as upon the persecuted Indians of Oka.

And, again, while the Indians have been prevented the use of both land and timber for the most ordinary and necessary ends of living or maintenance, and for attempting to make use of which have been again and again imprisoned and variously punished, the Seminary have not only appropriated for their own use and emolument some twenty-five large farms of the land, but have cut down, annually, some

thousands of cords of its wood, the sale of which brings them a large revenue, and this, in contravention of the Act of 1841, which secures to them only, and that from the *whole of those estates they have the management of*, a suitable maintenance or support for themselves and servants. Here again we have proof of the most flagrant acts of *fraud* perpetrated on these poor Indians, which calls loudly for punishment, swift and full.

Another and glaring instance of fraud and deception was practised by this Seminary in 1854 and 1859, when by a process of deception, which ought at the time to have been detected and punished, they succeeded in passing themselves off as the seigniors and owners of the seigniories they hold, instead of being but as administrators of these seigniories and but in trust for specific objects and charities. By this act they obtained a large sum *approaching to a quarter of a million dollars*. As Mr. Laflamme has shown in the case of the Jesuits, holding lands similarly in trust for Indians, when any such lands were in seigniories and held by *censitaires*, the proceeds from such were received by the Jesuits for the Indians, and applied for their benefit. This course should have been followed by the Seminary, in an honest observance of the purpose for which such lands, especially those of the Two Mountains seignior, were placed in their hands.

But they have not followed this course; but have appropriated this large sum, obtained in commutation, to their own use. In this again they have practised a wicked fraud on these poor Indians; and for such, also, should be visited with a condign punishment.

Nor is this all; for in the carrying out of their fraudulent course the Seminary have so improved their success as to induce the belief that in the payment of this money they were recognized as the *real and only owners* and proprietors of this seignior, to the prejudice of any right on or interest in such by these Indians; pleading as their justification the Act of 1841, although such explicitly guards the rights of the Indians in the following manner: "Nothing in this ordinance aforesaid

contained shall extend to destroy or diminish in any manner, to affect the rights and privileges of the Crown, or of *any person or persons*, society or corporate body, excepting such only as by this Act and the said ordinance expressly and especially destroy, diminish or affect."

As in the indictment the counts of Deception and Fraud have been proved, so can that of *Cruelty* be also. On this point a mere look at the condition of the Indians at Oka and its neighbourhood should be acknowledged as sufficient proof. And here let it be borne in mind that this Seminary have had these Indians in their charge for over two centuries, and that with the most ample means for their improvement. That while they had ample means for prosecuting their work in the most satisfactory manner, and to the most desirable consummation, and that without any opposition from any one, they have failed, and that in the most signal and complete degree that one can well conceive. That such is not the fault of the lands, the condition of many French settlers who have been brought in upon them—making seven large parishes with their villages or towns—fully prove, for they have succeeded to comfort, if not in a number of cases to affluence. Neither can it be set down to a fault of the Indians, for those of their own tribes settled in other places have risen in condition far above these, and that in proportion to the training that has been given them. But these Indians have been both neglected as to their proper training and education, and persecuted and harrassed in their living, in order that they might remove from these lands altogether. As, by craft the Seminary got them away from the Montreal Island lands, so by force (craft having failed here in this instance) they would drive them from those of the Lake lands. In this conflict of many years we see the reason of the impoverished condition of these Indians. They have been compelled to a wandering and demoralizing mode of living; and the precariousness of their means of subsistence has oft-times reduced them to absolute want and starvation.

A most painful revelation of their abject and suffering condition was made when the Protestant Missionary went first among them. Since then contributions of food and clothing have had to be made annually for them, otherwise not only suffering, but death itself, from absolute want, would have been the consequence in a number of cases. Indeed it is supposed, that with all that has been done for them by a Protestant and benevolent public, not a few have found an earlier tomb than otherwise they would have done had they been possessed of the necessary means of subsistence, and with which the Seminary was so richly endowed to supply. Heaven in more instances than one has avenged the cause of these hapless ones on those Seminary gentlemen. The case of one who to an appeal of charity made in behalf of a number of these Indians who were suffering from want, and who replied in a brusque and unfeeling manner with the words, "*Not a cent*," is most striking. After following up that style of feeling and conduct towards these Indians for some time longer, he was cut down by a stroke—a stroke so sudden that he could not have applied to him "*the rites of the Church*:" a deplorable circumstance truly, in the estimation of a Romanist. Another case that speaks loudly as the voice of God in Providence, is that of a priest who had ruthlessly imprisoned a poor Indian for making from the timber of their own lands, hoops, by the sale of which he was getting a scanty living for himself and family. On being liberated from prison after serving his full term (for pardon or the slightest modification to them for any offence is a thing so rare that it may be questioned if any Indian at Oka can recollect an instance of such having taken place towards them from one of these Seminary priests) the Indian went to Montreal, and almost the first object he saw when he reached the city was the funeral of the very priest who had occasioned his imprisonment!

The numbers whom the Seminary, by themselves, and a certain class of "bullies," or "foresters," have had arrested and dragged to prison, both male and female, and the reasons and

circumstances of their doing so, would fill many pages of revolting and harrowing narrative. These "foresters," as they are called, are picked "bullies" who go prowling through the forests to arrest the Indian found cutting any timber, no matter what the object. Finding such, they fall upon him, tie his hands, and then carry him to the gaol, which is about eighteen miles away. One they so arrested while in the act of cutting a piece of a tree; and having bound him so that he could scarcely move hand or foot, they threw him into a sleigh, and drove him away to prison, not even allowing him to put on a coat, although the time was winter. When they arrived with him, he was so benumbed, being so bound and coatless, that he could scarcely walk or stand. Three Indian girls for a most trivial offence, an offence which men of any feeling would have smiled at, they arrested and took to the gaol. A day or two afterwards the chief went to see them and found they had been made by these bullies the subjects of most coarse and brutal treatment: their clothes nearly torn off their persons, and their flesh blackened and contused in a number of places. When these bullies are supposed insufficient for the work their masters have for them, application is made to the Government at Quebec, which has always responded most promptly, by sending to Oka, for the Seminary's use in dragooning these Indians, any number of police they desired. And these have generally been found quite ready to carry out the humane wishes of the gentlemen of the Seminary.

Instances of the cruelty on the part of the Seminary towards the Indians are many, yet there are two or three special cases which should have a place here. One of these was the destruction of the church the Indians had, and in which they worshipped some two or three years. Shortly after its erection the chiefs were prosecuted by the Seminary for what they were pleased to call "a trespass." The church was built upon a site which an Indian woman owned, and which for the purpose of building the church thereon, the chiefs had bought from her. Yet its presence

in the village was an annoyance to the Seminary, and it must be removed from it. After some sparring in the courts, and by a process on the part of the Seminary and their lawyers, rarely heard of anywhere where any measure of civilization has been attained, or honorable principle prevails, the church was pulled down in the presence of the Indians, and in the most ruffianly manner. The leading lawyer employed by the Seminary, by a gross and shameless evasion deceived the Indians' lawyer so as to induce his non-attendance at the court at the time, and then by a snap-judgment, obtained by default, the case was carried against the Indians.

But something more must yet be done ere the demolition of the church can be effected. A document must be had to authorize this. But how shall this be obtained seeing no action of the court has been obtained to authorize it? But this can be got over, and easily, according to Romanistic ideas, and hence the necessary document is drawn up as if duly authorized; and the signature of the officer of the court necessary to give it legal effect is *forged*! Forged? Yes, forged; for such has been established in the court. The Seminary's junior lawyer, who conducted the case at the time, professes to know nothing about this. The officer whose name was appended to the paper swore it was not his signature. How it came there he was not prepared then to say—although afterwards he said he had no hesitancy in declaring his conviction as to who the writer of his name was. Of course no one would dare, directly, to implicate the junior counsel of the Seminary in so vile an act. And yet people will—well—they will think, and sometimes rather loudly as to whom the writer was. But as the signature was not forged without a hand, and as certainly a friend of the Indians would do such an act, and therefore cannot be charged with so grave a crime; and as it must have been done by some one—and he not a very honorable, honest or trustworthy a person—so the matter must remain for the present. Whoever he was, I daresay the Seminary has not refused him absolution for the sin

—and indeed some are wicked and censorious enough to believe that the Seminary even rewarded him for it. But at any rate the church was pulled down ; and that in the open day. It was a most fortunate thing that day for all concerned that the Christianity under which the Indians had been brought, as Protestants, was very different from that of the priests and their followers ; otherwise, there would have been a scene of bloodshedding that would have stirred our whole country. The Indians were dreadfully excited, and only needed a word to have set them on their tyrant persecutors and their rowdies. It was as much as the Protestant Missionary could do to restrain them. But he did so ; and this deed of vandalism was completed without any life being lost, or a drop of blood being shed. It may here be asked if a body of Romanists, with a priest at their head, and the knowledge that they could soon have disposed of a party that had come to pull down one of their churches, would have been counselled as were these Indians on that day : and that if even so counselled they would have obeyed ? These are points worth considering.

Another case memorable for important considerations I will also note :

Purposing to repair the fence of a pasture which had been acknowledged theirs for over a century, the Indians cut down some trees to this end in the neighboring woods. For this warrants for over forty of them were obtained, and a band of police from Quebec was brought up to serve them. The police, with an officer at their head, duly arrived ; and at once went to work—although in the night, and the Indians were then in bed. In making the arrests neither law nor order was observed ; and scenes of great brutality were enacted.

The following day the Indians held a council, and resolved, that if the police came in a legal way to make arrests they would at once submit ; but if, as in the night just passed, they came, they would resist them even to the death. With this purpose a number of them remained on watch all the following night, and fully armed to meet any comers. The night

wore away and no arrests were attempted; therefore, as the morning appeared, the Indians broke their watch and went to their homes, and many of them to their beds.

Shortly after this an alarm of fire was heard, and as many of the Indians got out of their houses and were running to the fire the word was passed: "Take care that this fire is not a trap to catch you by the police when you have got into the village."

But the fire was more serious than was at first supposed; for it had fallen upon and was burning the church and the presbytery, with the outlying outbuildings. And now the question was, By whom was this fire set? And after an investigation—of the Seminary party only, let it be remembered—a conclusion was reached that the Indians were the guilty parties; and, therefore, some thirteen of them were at once arrested and put in ward and subsequently taken to gaol.

After several months the trial came regularly before the court at Ste. Scholastique. Here appeared some notabilities, whose countenances and characters will long be remembered. Any amount of swearing could be had to convict the Indians, but unfortunately for that side, there was a considerable amount more than was needed, or than was good for the Seminary's case. It is also true that the Indians could also swear in the matter, and fortunately there were others on their side that were not Indians. And still more—and equally fortunate at least—there were some four persons in the jury—despite all manœuvring to prevent them being there—who had sufficient intelligence to distinguish between a made-up tale and a simple statement of facts; and above this, that had such ideas of responsibility to God, as well as to man, and of the nature and office of conscience under the influence of an oath, that they would declare their judgment according to the facts of the case as brought before them. The other eight showed how carefully they had been brought up in the faith of their church, and how sacred was the duty for every son

of the Church of Rome to obey the word and will of his priest. And as they fully understood the will of the priest in this instance, what need was there of any long discussion over the verdict they should give; and hence they would give it accordingly.

But the four dissentients had a principle and a grit that could not be swayed by such reasoning, and therefore, after a protracted and ineffective debate, the conclusion was: We cannot agree. The majority dare not bring in a verdict adverse to the wish of the priests, and the minority dared not bring in a verdict contrary to their consciences, and consequently, they had to agree to differ, and a *no verdict* had to be returned to the Court. This was a sore discouragement to the Seminary, who, from the number of witnesses, good and true, they had brought up, felt they were justified in looking for a verdict in their favor. But they would try it again, and again they did try it, and with a similar result.

Certain particulars in the last trial are worthy of a special record. In charging the jury the judge observed there was but one witness which connected the Indians with the fire. If they believed his testimony they must bring in a verdict of conviction; but if not, if they believed this witness's testimony unreliable, then their verdict must be one of acquittal. The jury then retired, and at once concluded that the witness in question was altogether unreliable; that he was a liar; and nothing should be believed that he had said. Yet they must, they said, bring in a verdict for the Seminary, because, forsooth, the trial had cost them already a large amount of money; and because the Protestant Missionary of Oka was the cause of all the trouble! It was unfortunate for the ten sagacious jurors who reasoned on the above principles, that again there were men of unbending principle on the jury; and that although now there were but two such, yet as one fly would spoil a pot of ointment, so these two jurors sufficed to spoil the nice and religious conclusion of the ten. Intimidation was employed, and violence threatened, yet

these men of conscience would not give way, and so the priests could be no more gratified now than on the previous occasion. After much manœuvring by the Seminary's lawyers to change the *venue* to one where they might look for a whole jury of obedient sons of the Church, and but for the Attorney General, who opposed their movement, would have succeeded, the trial is to take place early in the coming year in the town of Aylmer. Many are looking forward to that time with mingled feelings of hope and fear. Yet to all who believe that God rules, and that the triumphing of the wicked will not be always, there is strong hope that the salvation of God, in the deliverance of these Indians out of the hands of the gentlemen of the Seminary of St. Sulpice in Montreal, will yet be effected.

Some further remarks on this subject are called for, and which I will here make, ere I turn to take up other topics.

Without presuming to decide on the guilt or innocence of any person in this case, there are certain facts which will have weight with every impartial and intelligent reader. These I now supply.

It will be admitted by all persons who know anything of Indian character, that whatever may be said for or against them in this instance, they as a people are not devoid of cunning. Cunning and shrewdness are characteristics of the Indian in a remarkable degree. But if so, how account for the following particulars, in which are seen the very opposite of such?

First, after sitting up all night with arms, to watch against illegal and brutal arrests, they wait for the morning light to fire the church—if they are the ones who did so,—to do what, so far as concealment is concerned, they could have done so much better at an earlier hour, and to themselves, with equal convenience!

But if so foolish as to wait until daylight to do what they could have done, so far as concealment is concerned, so much better in the night, why was it that they fired off their cannon ere doing so?—for so the priests and their followers have

sworn—as if to arouse the people, among whom were the police, to come and see them do a deed which they might well know would excite the Romanist people of the village to the uttermost ?

But if even they did all these foolish things, and came down with their gun, first to fire it off, and then, when the people were aroused, to set fire to their church, &c., how is it that before doing so they went to their homes to leave their guns and such other weapons as they watched all night with, and came down to the village unarmed, in twos or threes without any order, and that with a certainty of encountering an infuriated village community and the police then among them ?

But he who can imagine all these foolish and improbable things of Indians, saying nothing of the character of these Indians for Christian forbearance and propriety as manifested on other and most trying occasions, either knows nothing of them, or is under an influence very like that of the majority in the two juries, which had this case before them for their sage consideration.

But did not the Indians fire off their gun or cannon on the occasion ? Yes, they did ; and the facts here are quite on the side of their innocence. This cannon had been stolen from them some years previously.

A short time before the fire occurred, a Canadian told them it was in his cellar, and that they could have it when they chose to come for it,—only, he said, do not come for it when my wife is at home.—Learning, on the night previous to the fire, that this woman was across the Lake, they went to the man's house and got their cannon. This a number of the young Indians rejoiced over, and set to work to give it a thorough cleaning. This done they loaded it with powder and were going to fire it off. But the chief prevented them, saying they would awaken and alarm the people, but, said he, wait until it is day, and then you can fire it off. This they agreed to do ; but when they heard the alarm of fire, they thought that now the firing of their cannon would render a service in

arousing the people, and they fired it off accordingly. Several of the young Indians who had fired the gun were seen returning with it afterwards,—such was taken as proof to a demonstration that they were concerned in the firing of the church, and so were arrested and suffered, while waiting for trial on the two occasions, some five months' imprisonment.

Well, but what about the Seminary's witnesses? What did they testify? And who were they? They were, first, the priest, the Rev. Mr. Lacan, whose portrait, with that of Father Philip and the chief witness, Pourrier, graced the columns of the *Witness* at the time. He, Mr. Lacan, swore that he heard the gun, and that it was fired some time before the buildings were fired; and that shortly afterwards he observed a number of Indians stealing by his window, in groups of threes and fours. It is true his blinds were closed at the time, and they being of fixed laths, there are those who question the power of even Mr. Lacan to see what he says he saw, under the circumstances. But this Mr. Lacan is an extraordinary man, and his powers are not to be measured and judged of by those of ordinary mortals. But this man Pourrier, who has proved himself so useful for the priest on more occasions than this one, stands before us with an extraordinary record.

One thing on record is, that an Indian swore that this Pourrier met him one day after the fire, and asked him why he did not witness for the Seminary? "Because," said the Indian, "I did not see the fire take." "Neither did I," said this Pourrier, "but I get fifty dollars for my testimony!" It is true it was but one testimony against another, for of course Pourrier denied having ever said any such thing. Preponderating circumstances with many incline them to believe the Indian, for he is a man of character, while the testimony of others—even witnesses of the Seminary—prove that Pourrier knew very little of what he swore so hard about.

For instance, he swore that having heard the gun he repaired to the tree close to the Seminary gate. That there he saw, as he stood behind a tree near to it, two Indians come

down, jump over the gate, get up on a stable, pour oil upon the roof, and then set it on fire. He waited to see all this, he said, and then the Indians to leave the place, when the fire had got considerable headway, and yet he gave no alarm, nor did he attempt to arrest the Indians he could so well identify. He declared, further, he was quite dressed at the time, and saw everything he described most clearly.

Yet, and quite damaging to this man's testimony is the fact that, two witnesses, called by the Seminary, and testifying in some instances in their favor, declare most positively that on the firing of the gun they repaired to the tree where Pourrier said he stood; and that although they remained there for some time, looking at the fire, they saw nothing of Pourrier. But to the question, "Did you see him at all anywhere?" the answer was, "Yes, we saw him some distance away, partially dressed, and talking with a blacksmith at his shop door; and looking as though he had just got out of bed." Testimony so clear and explicit, and that from the Seminary's own witnesses, goes far in proving that, as the jury unanimously concluded, this man is a liar, and not to be believed, no matter what he says, and to make it highly probable that what the Indian said about him was little short of the truth. That his testimony, and other services for the Seminary, are valuable to him, many think they have sufficient reason for believing.

Then, as to the two Indians this noted Pourrier says he saw set fire to the stable, it may be said that quite a number of Indians, and even others not Indians, swore they saw one of them, some time after the alarm of fire was given, come out of his house, and but partially dressed; and after looking for a short time at the fire he returned to his house and to his bed. The fact is he was one of those on watch all the night, and had but a short time before this gone to his home, from which he came only on the alarm of fire, and to which he returned very soon again.

Of the other Indian, witnesses quite sufficient to prove anything in a court disposed to receive from an Indian's tes-

timony to what was credible and likely, declared that he was not in the village at all during the night, and that he did not return to it until some time after the fire had been out.

I have been thus particular to show what a spirit of persecuting cruelty animates this Seminary towards these Indians. The trial is not likely to accomplish anything but a worry to the Indians and their friends. It is known that these trials are costly things. The Seminary have any amount of wealth, and their policy is evidently to so worry the Indians that they will be glad to move away from the Lake lands and leave the Seminary in their quiet and undisturbed possession even as they succeeded to those of the Seigniory and Island of Montreal.

One word more about the fire ere I leave this subject. It is said that the fire first took in a small building across the Seminary yard, and opposite the presbytery and the church; and that when it began the wind was blowing away from the church and presbytery, and therefore there was no fear at the time for these even if the stable was to burn down. But a change in the course of the wind took place quite unexpectedly, and communicated the fire of the smaller building to the larger ones. If therefore the Indians had fired the stable with the intention of the greater harm, they were foolish, unless they foreknew the wind would speedily change. But if, as some affirm as their conviction, a member of the Seminary, servant or otherwise, set fire to the small building so as to throw suspicion and blame upon the Indians, and which might eventually lead to their imprisonment for some years in the penitentiary, and all the attendant consequences to their great and serious injury, then they got more than they calculated for, and which now, in a feeling of desperation, they would press to the ruin of a number of these Indians.

But would you implicate the Seminary, or any members of it, in an act so vile and reprehensible? I may be asked. But would not the Seminary, I ask, implicate quite a number of these Indians in this vile act? Assuredly they would. I

therefore, having as high an opinion of these Indians as any one ought to have of the gentlemen of the Seminary, feel no repugnance, or sense of impropriety in simply stating what many have concluded upon, as to them a most feasible conjecture of the origin of the fire of the church and presbytery village of Oka ; and that it is just as likely that some member of the Seminary, or one of their servants, set fire to the stable on the opposite side of their yard ; and that this stable, by a change of the wind afterwards, set fire to the church and presbytery, as that the Indians did it. Yea, further, I think it much more likely that some of the rowdies whom the Seminary keep about them for services they deem of great importance, set these properties on fire, than that any one of the thirteen Indians they have had under arrest for that act would have done it.

CONCLUSION.

A Case Supposed—Parallel Points Suggested—The Way of Duty Indicated—Demands for its Performance Urgent—A Commission Called for—The Country being "Gobbled up" by the Roman Catholic Orders—The Remedy which Other Countries have Applied—Such not Desirable—Why not take the Necessary Measures for a Remedy now?—Loud Calls for Reform, &c.

Let us imagine that we are living in some large city, say in London, England. That here are found a number of gentlemen, who, deeply deploring the many forms of suffering in that city, especially in a youthful class known as "*Street Arabs*," have formed a purpose, and even united in a company to carry it out, to reclaim such if possible from their wandering and vicious habits,—habits which were not only ruinous to the youths themselves, but exceedingly troublesome and dangerous to the community generally.

After a while other gentlemen, hearing of their purpose, and fully sympathizing with them in their enterprise, put into their hands large means to be employed to this end. They very much desire that the enterprise should be a thorough one, and, therefore, lay it down as one of the objects for which they now richly endow this charity, that every "Arab" child reclaimed, shall, as soon as that fact is ascertained, be placed in circumstances to sustain himself, either as a mechanic or a farmer, and for which they now make all suitable and ample provision.

As preparatory to the above, they direct that certain institutions shall be commenced; first, to gather these children into "homes" for a preliminary training; and, being successful in this, to settle them for life in such trade or business

as the youths may choose ; but farming is the one the benevolent friends and patrons would prefer for them.

But in process of time things have changed. The *Street Arabs* are not objects of interest with the present directorate. In the use of various pretexts and means the directors, or trustees, have assumed that the properties put into their predecessors' hands for charitable purposes, are now, *and always have been, their own* ; and that, instead of being but trustees, or administrators, as some have contended, they are the masters and proprietors in the most absolute sense of these terms. And further, so fully have a number of leading men of the city become influenced by the blandishments of these directors, and especially by the power which their management of the great properties they hold has given them—a power it is well known they have both the will and the purpose to use to the uttermost for their own ends, that they salute them as the lords paramount while the poor *Street Arabs*, who, by the founders of the charity were so kindly thought of, and so liberally provided for, and to whose interests these directors were so closely pledged, are now the merest nobodies in their estimation.

We can easily conceive that were the original framers and endowers of this charity permitted to come again to the earth, they would with indignant feeling drive these unfaithful and unrighteous directors from their trust, while to other and more reliable hands they would promptly commit it. The reader can at once see a parallel in this supposed case and in that of the *Oka Indians*. A society was formed and an endowment made—large and generous, with specific objects in view—as for the Arab children, so for the Indians. And just as the directorate in the supposed case, so have the Seminary, by a process of chicanery and impudence, risen to assumptions the most gross and outrageous. The Indians, as the *Street Arabs*, are despoiled and cast off ; and yet men—celebrities in their way—fawn upon this great and powerful corporation, esteeming a smile of simplest recognition, especially when accompanied by

considerations of a weightier nature, as ample remuneration for such sycophancy and deference.

What the resuscitated authors and founders of the supposed charity would do, could they come back to the earth, that should the authorities of the country now do in this Oka case, as on them rests the responsibility to defend the poor in their rights, and to punish the wicked who have invaded and despoiled them. And should those, who, being invested with this authority, shirk the duty to which they are called, then the people, from whom such authority proceeds, should arise, and with most determined purpose, resolve that justice shall be done, even though the heavens of ecclesiastical assumption should fall to the ground, and forever.

That these Oka Indians, who are wards of the Dominion Government, should be left to be the sport of the vindictive and cruel policy of the Seminary, and that for many years past, is a reflection upon us, as a people, even great as that we oft-times throw upon our American neighbors, for their conduct towards their Indians. The condition in which it is well known these Indians have long lived, and the pressing wants under which for years they have suffered, should, long ere this, have evoked for them an earnest determination of redress. That there is a remarkable forgetfulness—or, rather, an unaccountable ignorance—of the leading particulars of the long conflict waged by the Government and the Seminary on one hand, and by the Indians and the Seminary on the other, is a fact by no means honoring to our leading men. Yet irrespective of all considerations but those of justice, in a proper consideration of the rights which the Indians unquestionably have, and of the duty to see those rights properly acknowledged and secured, a commission of enquiry should be appointed to make a thorough and complete report of all the facts in the case. These ascertained, the Government should then proceed to such action in the premises as so important an interest demands. It is quite evident that a commission altogether of

Canadians would not be just to the Indians. For it is quite clear from the many opinions given, in late years, on the question of title as between the Seminary and these Indians, that the influence—the powerful influence of the Seminary—is but too apparent and real. One or more of the Commission should represent Imperial interests and views; and to them should be submitted the papers that have passed to and from the Government previous to the passing of the Act of 1841, and then the proper consideration of that Act in all its bearings on the several parties and interests concerned; when, if necessary, the whole should pass under review and be confirmed by the Queen's Privy Council in England.

The Dominion Government on whom especially the duty of having this long-vexing question settled, has for years shirked its duty, and has looked about more for excuses for not attempting it, than for evidence of what should be done in the case. And yet, when it is considered that this Oka question is but one of a number that *should* be considered, —that *must* be considered—and that ere long *will* of necessity have to be considered and dealt with in Canada, as they have been in other countries, it would be well, to prevent the great evils that must otherwise follow, for the persons on whom the responsibility rests to arise to their duty, and perform it with thoroughness and effect.

I have shown that the most carefully arranged provisions, and guards, were thrown around the vast revenues of the Sulpician Seminary when the British Government consented to confirm their titles to their immense estates. It is equally clear that no Government of Canada has entered into the jealous carefulness of the Home Government in guarding the conduct of this Seminary since then. Hence the Seminary has dealt with its income as it has pleased it: and from one degree to another until the claim of absolute ownership, and right to do as they please with the estates in their hands, is the undisturbed and hitherto unquestioned outgrowth.

Other orders of the Church of Rome are acting in the same way. Original purposes in the endowments bestowed on them are lost sight of. The estates of every one of these orders are becoming greater and greater every day. Not only do they hold in the cities, properties, the amount of which would astonish the reader, but in the country, by primary right and by mortgages on the farms and properties of the *habitants* and traders generally, the entire province of Quebec, is, to use an Americanism, *being gobbled up*.

In England, Hallam informs us, despite the statutes of Mortmain to prevent it, "*the English monasteries got within their grasp a fifth part of the lands of the Kingdom.*" And were full revelations obtained of the possessions of such in the province of Quebec, it would be seen if they had not attained to that proportion of the lands and properties here, they were reaching fastly and surely towards it.

Some relief it would be in looking at this dark picture if we could believe that the objects contemplated in any one of the endowments of these orders were really carried out. If all were then without any additional tax on the country, the educational and charitable wants of the Province, certainly of the Church of Rome in it, would be fully met. But such is not the case, and hence—see how large are the appropriations to this church every year from the Government's income; and such on the increase continually. And to what effect? Are not the people of that faith proportionally the most illiterate of any in the Dominion? Is not the largest percentage of the poor, the street beggars, the suffering and the infirm, seeking relief, of their faith? Is not the proportion of the sick relieved in the Protestant hospitals of our cities, very largely Roman Catholic? while very many of their people from preference are found in Protestant hospitals rather than in their own, and that from the fact of kinder and better treatment.

And what does all this say, in view of the settled endowments of the various orders of this Church, and the amazing growth of such year by year? In view of the large grants

made to that Church by the Government year by year? In view of the large proportion of the tax from what is called "*neutral*" properties year by year for their schools? In view of the regular and ordinary income of their Church, in all parts of the country, and especially of those bequests which are wrung from dying people, by a skilful operation on their fears and hopes of purgatorial expiations?

All these things are before us—Roman Catholic as well as Protestant,—and to the one as well as to the other, are they matters of greatest and gravest moment. In the conclusions, proper for all under the circumstances, there should be a merging of those differences of religious faith which distinguish us in the one great purpose to remedy this state of things, and that by means which would prevent the more objectionable one of *revolution*. In Italy, in France, several times—in Germany, in England, and the States of South America—evils of this nature have been broken up by revolution; and we are drifting fast to the same terrible remedy. Some years ago the question was put to a then member of the Government, "what all this meant?" referring to the passing of so many acts of incorporation to orders of the Church of Rome. And the answer, was—"Revolution," "and the more they get, the sooner it will come." This question and answer might have been stimulated by the fact that about that time an event occurred in the Legislative Assembly, at Toronto, that must have had quite an influence on the gentleman who asked the question, as doubtless it had on the one that answered it. It also has an important bearing upon the subject now under discussion. The Government introduced a bill to make all bequests, or legacies, within six months of the death of the person who made such, of no effect. Some humiliating disclosures of what was considered nothing short of barefaced robbery had been made, and all parties felt the importance of preventing such in future. I say all parties, for not only were there several Roman Catholics in the Government, but one, and he a leading one, was the

person who introduced the bill to the house. The fulminations of the clergy, who felt that a prolific source of their income was menaced, were soon levelled against the impious (?) sons of the church, who dared attempt such an act; which compelled the withdrawal of the bill, and so it fell to the ground. By this the great power of the clergy of the papal Church was seen; nor less their great sensitiveness in everything affecting their sources of income.

And yet with such startling facts before us, what Government will dare to do its duty in the premises? What Government will turn away from their door the leeches sucking its vitals so greedily, while in receipt of vast means from the sources I have indicated, and others even, which none but a Romish cleric has the ingenuity to devise, or the courage to work? What Government will dare demand of the Sulpicians, for instance, an account of their incomes and expenditures, because they want to see whether or not a faithful and legal application is made of them; and whether or not a portion of the surplus income may not be available for some other religious, charitable, and educational institutions, than those to which they now are applied, and for which the Act of 1841 provides?

But if Governments are not sufficiently resolute to perform their duty in these respects, is there not a power to press them up to it? Surely the public are not all so completely blind to their duties and interests as much longer to let matters drift, as they now are drifting, to a fearful revolutionary upheaval?

A wise course would be to cause the law to be applied to every order in the Church of Rome or out of it. For of what benefit are laws, however good, if they are never applied? This would produce results alike beneficial to all classes; and then would the poor Indians of Oka know something of justice in its application to their case; and of peace as the fruit of a wise and equitable administration of their affairs for the time to come.

APPENDIX.

NOTE A. (SEE PAGE 22.)

Article 35, of the Capitulation. "If the canons, priests, missionaries, the priests of the Seminary of the foreign missions, and of St. Sulpice, as well as the Jesuits and the Recollets, choose to go to France, passage shall be granted them in His Britannic Majesty's ships: and they shall have leave to sell, in whole or in part, the estates and movables which they possess in the colonies, either to the French or to the English, without the least hindrance or obstacle from the British Government.

"They may take with them, or send to France, the produce of what nature soever it be, of the said goods sold, paying the freight as mentioned in the 26th Article. And such of the said priests who choose to go this year shall be victualled during the passage at the expense of His Britannic Majesty, and shall take with them their baggage.

"They shall be masters to dispose of their estates, and to send the produce thereof, as well as their persons, and all that belongs to them, to France."

This Article was refused until the King's consent should be obtained. And that this was never granted is proved by the following facts:—

First,—By the Order sent in 1765—five years subsequently—by the Lords of the Treasury to Receiver-General Mills, "to see that the estates of these societies were not lost to the Crown by sequestration or alienation; as they were to be united to the Crown domains."

Secondly,—By the Act passed in the British Houses of Parliament, in 1774, entitled "The North America Act," in which, among the objects specified for its enactment, is the following:—
"And to secure to the Roman Catholic clergy, *except the regulars (or members of the religious orders)*, the legal enjoyment of their lands and of their tithes in their own communities, or from all who professed the Roman Catholic religion." The exemption of the regulars, of whom the Seminary of St. Sulpice were an order, is too clear and explicit to be misunderstood.

Thirdly,—Because the refusal to allow the article in question,

is indispensable to justify the action of the Government, subsequently, in demanding from the Seminary the surrender of their estates; and of the strong opinions against the Seminary by the Crown officers, several times expressed: nor less, the conduct of the Seminary in their perfect silence on this subject in all their controversy with the Government on the question of title subsequently.

Garneau, in his History of Canada, explicitly declares that "by this celebrated Act," the articles of capitulation, "Canada passed finally under British domination. Free exercise of the Catholic religion was guaranteed to its people. Certain specified ecclesiastical brotherhoods, and all communities of *religieuses*, were secured in the possession of their goods, constitutions, and privileges; *but the like advantages were refused to the Jesuits, Franciscans, and Sulpicians*, until the King should be consulted on the subject." And that he refused all concession to the demand is shown above. *See History of Canada, Vol. II., p. 70.*

The reason for this, as given by Garneau, in his reference to the Jesuits' estates, equally applies to those of the Sulpicians. It is as follows:—"It was not till this took place" (the papal decree abolishing the order of the Jesuits) "that the British Government thought of appropriating their estates; forgetting, as it did, *that the Jesuits were only the depositaries of that property, since it had been given to them by the Kings of France, for educating the people, and the instruction of the savages of New France.*"

NOTE B. (SEE PAGE 27.)

ORIGINAL GRANTS.

(No. 7.)

[Translated from the French.]

This twenty-seventh day of April, One thousand seven hundred and eighteen, the King being in Paris, and desiring to be propitious towards the ecclesiastics of the Seminary of St. Sulpice, established in Paris, from whom those of the Seminary of St. Sulpice established at Montreal proceed, and to whom the Sieurs de Vaudreuil and Bégon, Governor and Lieutenant-General, and Intendant of La Nouvelle France, have granted by Deed of Concession, on the seventeenth of October, One thousand seven hundred and seventeen, a tract of land of three leagues and a half in front by three leagues in depth, to enable them to transfer there the mission of the Indians of Sault au Récollet, which is under

their care, and this on the terms, provisions, and conditions mentioned in the said Deed of Concession, which Deed of Concession His Majesty caused to be laid before him to be approved in favor of the ecclesiastics of the Seminary of St. Sulpice at Paris, and solely on the conditions which are to be mentioned in these presents. His Majesty, by and with the advice of Monsieur le Duc d'Orleans Regent, has given and granted by and in virtue of these presents to the ecclesiastics of the Seminary of St. Sulpice, established in Paris, that certain tract of land containing three leagues and a half in front, to commence at a brook which runs into the great bay of the Lake of Two Mountains, ascending along the said lake and the River St. Lawrence, by three leagues in depth, the said piece of ground being mentioned in the said Deed of Concession of 1717, in order to transfer there the mission of the said Indians of Sault au Récollet; to have and to hold the same for ever unto the said sieurs ecclesiastics, their successors and assigns, even if the said mission be taken away from thence, in full property, under the title of fief and seigniory, with the right of superior, mean, and inferior jurisdiction; with the privilege of hunting and fishing as well within as opposite the said concession, on condition that they shall bear the whole expense necessary for removing the said mission, and also cause a church and a fort to be built there of stone at their own cost, for the security of the Indians, according to the plans thereof, which shall be by them handed over to the Governor and Intendant of La Nouvelle France, to be by them and with their report sent to the Council of Marine for His Majesty's information, and to be approved; which works they shall be held to perform within the space of seven years, subject also to the condition of fealty and homage (*foi et hommage*) which the ecclesiastics of the said seminary, their successors and assigns, shall be held to perform at the castle of St. Lewis, in Quebec, and which they shall hold under the customary duties and dues, and agreeably to the custom of the Prevostship and Viscounty of Paris, followed in La Nouvelle France, and that the appeals from the decisions of the judge who may be established at the said place shall lie before the judges of the Royal Jurisdiction of Montreal. That they shall keep and cause to be kept house and home (*feu et lieu*) on the said concession. That they shall preserve their oak timber fit for shipbuilding, which may be found upon the land which the said ecclesiastics shall have set aside for their principal manor house, and that they shall also stipulate the reserve of such oak timber within the extent of the private concessions made or to be made to their tenants, which said oak timber His Majesty shall be free to take, without being held to pay any indemnity; also, that they shall give notice to the king or to the Governor and Intendant of La

Nouvelle France, of the mines, ores, and minerals, if any be found within the limits of the said fief, and leave the necessary roadways and passages. That they shall concede the said uncleared lands under the simple title of a rent of twenty *sols* and a *capon*, for each and every arpent of land in depth, and six *deniers* of *cens*, and that there shall not be inserted in the said concessions any sum of money or any other charge than that of the simple title of *rent*, His Majesty granting them, nevertheless, the permission to sell or grant at a higher rent the lands of which a quarter will have been cleared. The present Deed of Ratification to be registered in the Superior Council of Quebec, for the use of all whom it may concern, and in testimony whereof His Majesty has commanded me to draw up these presents which he has been pleased to sign with his own hand, and countersigned by me, Joint Secretary of State, and of his commands and finances.

(Signed,) LOUIS.

(Signed,) PHILYPIAUX.

The title of concession above written has been registered in the records of the Superior Council of Quebec, according to the command of this day's date, of the King's Procureur-General, by me, Clerk of the said Council, at Quebec, the Second of October, 1719.

(Signed,) RINEL.

(No. 8.)

[*Translated from the French.*]

This first day of the month of March, one thousand seven hundred and thirty-five, the king being at Versailles, and having caused to be laid before him the Deed of Concession made on the twenty-sixth of September, one thousand seven hundred and thirty-three, in favor of the ecclesiastics of the Seminary of St. Sulpice of Paris, by the Sieurs Marquis of Beauharnois, Governor and Intendant General for His Majesty, and Hocquart, Intendant in La Nouvelle France, of a tract of land situated in the said country, and lying between the line of the Seigniorship belonging to the representatives of the late Sieurs de Langloiserie and Petit, and that of the Seigniorship of the Lake of Two Mountains belonging to the said seminary, and in the front extending about two leagues by the Lake of Two Mountains; the said tract of land abutting on an angle formed by the two above mentioned lines, together with the ungranted islands and islets, and the beaches adjoining the said tract of land, having also caused the Deed of Ratification of the twenty-seventh April, one thousand

seven hundred and eighteen, by which His Majesty conceded to the same seminary the said seigniory called Lake of Two Mountains, and desiring His Majesty to be propitious towards the said ecclesiastics of St. Sulpice of Paris, by confirming the concession of the twenty-sixth of September one thousand seven hundred and thirty-three, he has ratified and confirmed the said concession, to have and to hold the said ecclesiastics, their successors and assigns for ever, as a fief and seigniory, with the right of superior, mean, and inferior jurisdiction, with that of fishing, hunting, and trading with the Indians within the limits of the said seigniory, on the following terms, provisions, and conditions, to wit: That the bearing of the said land will run in depth south one quarter south-west to north one quarter north-east and not south-west one quarter north-east as inserted by mistake in the Deed of Concession made by the Sieurs de Beauharnois and Hocquart; that the said ecclesiastics, their successors and assigns, shall be subject to the performance of fealty and homage (*foi et hommage*) to His Majesty on every change of reign, and furnish him also with new census, as well at the castle of St. Lewis in Quebec, of which they shall hold, according to the custom of Paris, followed in La Nouvelle France, without being obliged to pay to His Majesty, nor to his successors (kings) any rent or dues whatsoever, neither for the land to them conceded at the said Lake of Two Mountains by the Deed of Ratification of the Twenty-seventh of April, one thousand seven hundred and eighteen.

That His Majesty will be free to take at all times, without being held to pay any indemnity, the oak timber fit for his service, which may be found on the said conceded lands; that the said ecclesiastics, their successors and assigns, shall give notice to His Majesty, or to the Governor or Intendant of La Nouvelle France, of the mines, ores, and minerals, if any be found, within the limits of the said concession; that the appeals from the decision of the judge who may be established at the same place, shall lie before the judges of the Royal Jurisdiction of Montreal; that within a year and a day they shall keep, and cause to be kept, house and home (*feu et lieu*) on the said concession, in default whereof the said concession shall revert to His Majesty's domain; that they shall immediately clear, and caused to be cleared, the said tract of land; that they shall leave on the said concession the King's highways and other roadways which may be found necessary for the public use, and that they shall cause the same conditions to be inserted in the concessions which they shall grant to their tenants, subject to the customary *cens et rentes* and dues for each *arpent* of land as in the adjoining seigniories, considering the nature and circumstances of inheritances, at the time of the

said private concessions, the same to be observed by the desire of His Majesty as regards the lands and inheritances in the Seigniori of the Lake of Two Mountains, belonging to the said ecclesiastics, notwithstanding the fixing of the said *cens* and dues and of the quantity of land of each concession set forth in the said deed of one thousand seven hundred and eighteen, to which His Majesty has departed from, and as the said ecclesiastics of St. Sulpice have represented to him that the transfer of the said Indian mission from the Island of Montreal to the Lake of Two Mountains, the stone church, the presbytery, the wooden fort which they have built thereon, have caused them expenses far exceeding the value of the lands conceded to them by the present deed, and by that of one thousand seven hundred and eighteen ; that it would be impossible for them to build thereon a stone fort, as obliged to by the said deed, and that besides, that stone fort would now be useless, the land at the head of the other concessions upon which the said fort was to be erected for the security of the country, being occupied by the widow lady of Sieur d'Argenteuil ; and, lastly, that the Indians of the mission of the said Lake of Two Mountains being accustomed to often change their place of abode, and so to render the said land more profitable, it would, therefore, be necessary to extend the said land further than the three leagues as set forth in the said deed of one thousand seven hundred and eighteen, the land conceded by these presents adjoining the Sieurs Petit and Langloiserie, being of a small extent in depth, His Majesty has released and releases the said ecclesiastics of St. Sulpice from the obligation of building the said stone fort or any other works, excepting those already made, upon the said land of the said concession of one thousand seven hundred and eighteen, to which His Majesty is now pleased to add an extent of three leagues in depth, if the said extent is not already conceded, and which he now grants and concedes to the said ecclesiastics of St. Sulpice of Paris ; to have and to hold in full property and seigniori, as well as the old land mentioned in the said first concession, which shall, consequently, be of six leagues in depth. Desiring His Majesty that the said concessions be restricted and subject to the conditions above mentioned without exception, although they may not have been stipulated in either of the said concessions of 1733, or in the said deed of ratification of the 17th April, 1718. And in testimony whereof, His Majesty has commanded me to draw up these presents, which shall be registered in the Superior Council of Quebec, for the use of all whom it may concern, and which he has been pleased to sign with his own hand, and countersigned by me, Counsellor, Secretary of State and of his commands and finances.

(Signed,)

LOUIS.

(Signed,)

PHILIPPEAUX.

On the back is written :—

Recorded in the records of the Superior Council of La Nouvelle France, to be executed according to its form and tenor, the King's *Procureur Général* having been heard, according to the decree of this day's date, by us, the undersigned councillor, King's Secretary, Clerk in chief of the said Council, at Quebec, the 12th December, 1735.

(Signed,)

DAINE.

Compared with the original, written on parchment, and to us exhibited by Messire Joseph Bourneuf, procurator of the Seminary of Montreal, and immediately returned to himself by the undersigned notaries for the Province of Lower Canada, residing in Montreal, this day, one thousand seven hundred and ninety-six.

(Signed,)

LOUIS CHABOILLEZ, Notary,

JEAN GUILL. DELISLE, Notary.

NOTES FROM THE DEEDS OF THE ORIGINAL GRANTS.

1. That the lands of the Lake of Two Mountains were asked for by the Seminary of St. Sulpice, and granted by the King of France, in special, and all but exclusive reference for the Indians.

2. That residence and protection on these lands, and maintenance from them by the Indians, were evidently understood, and provided for by the King of France and the Seminary, may be clearly gathered from the following facts :—

(a). A fort of stone was to be built by the Seminary for the security of the Indians, and that according to a plan which should be sent to the Council of Marine for His Majesty's information and approval (see Grant of 1718).

(b). Because a prominent plea for the second Grant, *i. e.*, of 1735, was for the Indians, in the following words :— "And, lastly, that the Indians of the Mission of the said Lake of Two Mountains, being accustomed to often change their place of abode, and to render the said land more profitable" (doubtless for the Indians,) "it would, therefore, be necessary to extend the said land further than the three leagues, as set forth in the said Deed of one thousand seven hundred and eighteen."

CAP. XLII.

An Act respecting the Seminary of St Sulpice, Confirming their Title.

WHEREAS the Ecclesiastics of the Seminary of Saint Sulpice, established at Montreal, in this Province, have, since the capitulation made and signed at Montreal aforesaid, on the eighth day of September, in the year of Our Lord one thousand seven hundred and sixty, held, possessed and enjoyed, and do still hold, possess and enjoy the fief and seigniory of the Island of Montreal and its dependencies,—the fief and seigniory of the Lake of the Two Mountains,—and the fief and seigniory of Saint Sulpice,—and their several dependencies,—all situated in the said district of Montreal ; And the said Ecclesiastics have alleged and do allege, that they, so as aforesaid, have held, possessed and enjoyed, and still do hold, possess and enjoy all and singular the said fiefs and seigniories, and their dependencies, rightfully, and as the true and lawful owners of the same ; And whereas doubts and controversies had arisen touching the right and title of the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal, in and to the several fiefs and seigniories, and their dependencies, of which they have, as aforesaid, been in possession since the said capitulation, and it had been contended that all and every the said fiefs and seigniories became, by the conquest of this Province by the British arms, vested, and still remain vested, in the Crown ; And whereas Her Majesty, desirous that all such doubts and controversies should be removed and terminated, and that Her faithful subjects, holding lands within the seigniorial limits of the said fiefs and seigniories, should be enabled to effect and obtain the gradual extinction of all seigniorial rights, dues and duties, payable or performable for or by reason of such their lands, did, of Her own mere will and proper motion, graciously signify Her Royal pleasure, that the right and title of the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal, in and to the said several fiefs and seigniories, should be absolutely confirmed, under and subject to the terms, provisos, conditions and limitations hereinafter contained and expressed, which said terms, provisos, conditions and limitations were fully and formally agreed to and accepted by the said Ecclesiastics of the said Seminary of Saint Sulpice of Montreal, all which were embodied and enacted in the Ordinance passed in the session of

the Special Council for the affairs of Lower Canada, held in the third or fourth years of Her Majesty's reign, and chaptered thirty ; And whereas for fulfilling Her Majesty's gracious pleasure and intentions in the said behalf, and for other the purposes aforesaid, it is expedient and necessary that the said Ecclesiastics of the Seminary of Saint Sulpice of Montreal should be and remain an Ecclesiastical Corporation, or Body Corporate and Ecclesiastical (*communauté ecclésiastique*), for the purposes herein-after mentioned.

2. And the said corporation shall have, hold and possess the same as proprietor thereof, as fully, in the same manner, and to the same extent, as the Ecclesiastics of the Seminary of Saint Sulpice of the Fauxbourg of St. Germain Lez Paris, or the Seminary of Saint Sulpice of Montreal, according to its constitution, before the eighteenth day of September which was in the year One thousand seven hundred and fifty-nine, or either or both of the said Seminaries, might or could have done, or had a right to do, or might or could have held, enjoyed or applied the same, or any part thereof, previously to the last mentioned period,—and to and for the purposes, objects and intents following, that is to say : —the cure of souls within the parish (*la desserte de la paroisse*) of Montreal,—the mission of the Lake of the Two Mountains, for the instruction and spiritual care of the Algonquin and Iroquois Indians,—the support of the *petit séminaire* or college at Montreal, the support of schools for children within the parish of Montreal,—the support of the poor, invalids and orphans,—the sufficient support and maintenance of the members of the corporation, its officers and servants,—and the support of such other religious, charitable and educational institutions as may, from time to time, be approved and sanctioned by the Governor of this Province, for the time being,—and to or for no other objects, purposes or intents whatsoever. 3, 4 V., c. 30, s. 2.

* * * * *

13. (2) Provided that out of the said moneys arising as aforesaid, or received and gotten in and collected, the said Ecclesiastics of the seminary of St. Sulpice of Montreal and their successors, may apply and invest a sum or sums of money, in the whole not exceeding the sum of one hundred and twenty thousand dollars, in *constitution de rents* on immovable property, or in the purchase of houses, land and tenements, and immoveable property, situated within Lower Canada, in order to create and produce income to the said Ecclesiastics of the seminary of Montreal, and their successors ;

(3.) Provided, always, that in addition to and over and above such real property producing income, which the said corporation are hereby authorized to purchase and hold to the value of one

hundred and twenty thousand dollars as aforesaid, and no more, they may likewise purchase and hold any other real property, houses, buildings, or tenements, destined for and appropriated to purposes of religion, charity, or education, and producing no income, which are necessary to accomplish the purposes and objects of the said corporation, as the same are hereinbefore described and defined. 3, 4 V. c. 30, s. 13.

14. The said Ecclesiastics of the seminary of St. Sulpice of Montreal shall, whenever and so often as they may be thereunto required by the Governor of this Province, lay before him, or before such officer or officers as he shall appoint, a full, clear, and detailed statement of the estate, property, income, debts, and expenditure, and of all the pecuniary and temporal affairs of the said corporation, in such manner and form and with such attestation of correctness, as the Governor shall direct. 3, 4 V. c. 30, s. 14.

15. The said Ecclesiastics of the seminary of St. Sulpice of Montreal, and their successors, as to temporal matters, shall continue and be subject to the same powers of visitation, as in the like cases were possessed and exercised by the Kings of France, before the conquest of this Province, and are now possessed and exercised in that behalf by Her Majesty, in right of Her Crown. 3, 4 V. c. 30, s. 15.

16. Nothing in this Act or in the Ordinance aforesaid contained, shall extend to destroy, diminish, or in any manner to affect, the rights and privileges of the Crown or of any person or persons, society, or corporate body, excepting such only as this Act and the said Ordinance expressly and especially destroy, diminish or affect. 3, 4 V., c. 30, s. 16.

From the above Act, the following facts are clearly deducible:—

1. That the Title of the Estates held by the Seminary was a subject of controversy with them and the Government, from the time of the Conquest to the passing of this Act.

2. That while the Seminary held they were the "true and lawful owners" of these Estates, the Government maintained that "by the Conquest of this Province by the British Arms," the estates of the Seminary became "vested, and remained vested in the Crown."

3. That so persistently did the Crown maintain its right in these estates, that now, while by an Act Her Majesty would put a stop to the controversies which had so long existed on this question, yet, in it she declares she does so "of

Her own mere will and pleasure," so "that Her faithful subjects, holding lands within the seignorial limits of the said fiefs and seigniories, should be enabled to effect and obtain the gradual extinction of all seignorial rights, dues and duties, payable or performable for, or by reason of such their lands," &c., &c.

4. Further, that the Title confirmed to the Seminary of Sulpice, of Montreal, let it be remarked, was that, and that only, which had been held by the "Ecclesiastics of the Seminary of Saint Sulpice, of the Fauxbourg of St. Germain, lez Paris." But as we know by the highest legal authorities of England and Canada, that the Title of the Seminary of Paris was simply that of Administrators of a trust held for objects distinctly specified and understood, therefore, this Act being only to confirm to the Seminary of Montreal the Title as previously held by the one of Paris, they are by it, as were the Parisian Seminary, but Administrators of the Estates they hold in trust for objects specified as "terms, provisos, conditions and limitations"; and on the right and due performance of which they are guaranteed "*the sufficient support and maintenance of the Members of the Corporation, its officers and servants.*"

It should be noticed here, that while the Crown insisted upon the "terms, provisos, conditions and limitations" which the Act contains, that "they were fully and formally agreed to and accepted by the said Ecclesiastics of the said Seminary of St. Sulpice, of Montreal." The assumptions, therefore, to the contrary of these facts, so confidently and so arrogantly put forth by the Seminary and their friends, are seen not only to be without any support whatever, but in direct opposition to the purposes of the Crown and to the legal and moral rights of the Indians.

5. As by this Act were the Seminary for the first time constituted a corporate body, and thus qualified to hold any property in their own right (as see latter part of Section 1), so have we another means of concluding on the entire absence of any thing to justify the Rev. Mr. Baile in saying that "the right and title of the Seminary to that Seigniorie were recognized in the most ample and most unreserved manner in the Charter which was granted them in 1840 by the authority of the British Government."

NOTE C. (SEE PAGE 28.)

The following papers were placed in the writer's hands since the completion of the main part of the pamphlet, and are here given as important testimony against the assumptions of the Seminary as to their title originally, and in favor of the views maintained by the British Government from the time of the conquest of Canada to the passing of the ordinance of 1841.

The first paper is by Sir James Marriott, Advocate-General, and LL.D. of the College of Advocates, Doctors Commons, London. It is a part of his report to the King of the Plan of a Code of Laws for the Province of Quebec, and dated 1773.

"It seems to be pretty clear that any religious communities who, as principals, at the time of the conquest, were not inhabitants resident in person, do not fall under the privilege of the capitulation, nor come within what is termed by civilians the *casus feoderis*, so as to retain the property of their estates under it; because they were not then the local objects to whom, as a personal consideration, for ceasing their resistance, and on account of their particular courage or distress, the conqueror granted terms of special favor; neither could they retire according to the treaty; and if they could not retire, they could not take away their persons and estates; therefore if it is true in fact, that any estates are now held under the grants of foreign religious communities, either in under tenancy, or in trust for them, or by deputation, such as the Jesuits and the Ecclesiastics of the Seminary of St. Sulpice at Paris, that fact is very important. The community of the latter are the temporal lords of the most fertile parts of Canada, and a city dedicated to the Virgin Mary. They have an influence there equal to the power of the Italian clergy in the State of the Church, or, *Campagna di Roma*.

The parishes in the Isle of Montreal and its dependencies, says Charlevoix, *e.g.*, p. 340, are still upon the ancient footing of movable priests, and under the directions of the members of St. Sulpice. They possess a fine and improving estate of eight thousand pounds sterling a year at Montreal, and which will in a few years be worth ten thousand pounds. If all the facts are clearly established, as stated, it is a great question of law, whether these estates are not now fallen to your Majesty, of whom the under tenants and possessors must be intended to hold them, as trustees of such uses as your Majesty shall declare.

It is in proof by several deeds of estates (it is immaterial whether before or after the conquest) that the *religieuse* living in the Seminary of Montreal are merely *negotior una stores*. They are so described in several instruments of conveyance, which Mr. Mazieres has perused in the course of business. These conveyors

are said to be *Fondes de la procuration de Messieurs les Ecclesiastiques du Seminaire de St. Sulpice à Paris*. It appears according to M. Lotbiniere's own words, that before the conquest the Seminary of St. Sulpice at Paris was a voluntary partnership, among a number of clergy at Paris who engaged together in buying and selling; that the joint house of Montreal had a share in the joint house at Paris, in a sort of mercantile way, and an open account. That after the conquest they dissolved the partnership because the house at Paris (says M. Lotbiniere) could not have any right after the conquest in the effects and estates in Canada; they at Paris transferred (what therefore they could not transfer, having at that period, as he admits, no property in the estate and only a share), the whole in Montreal to the *religieuse* there, who probably were not (*vraisemblablement*, says M. Lotbiniere) attorneys of those at Paris; and this was done by the latter, upon paying a compensation, being the difference of the accounts upon a balance.

This after all is *oui dire*, as he says he has heard and believes, and it stands against the evidence of Mr. Mazieres, if it were contradictory; but it appears manifestly that the *religieuse* at Montreal have only a colored and ostensible title. There is also the evidence of a gentleman of undoubted veracity and knowledge, who, having had transactions with Father Magulphi, the person acting in the colony for the community of St. Sulpice, with a view to some purchase, the real proprietors were forced to come forward, and the uncertainty of their title broke off the negotiation. The evidence of Charlevoix also may be added.

In 1657, says Charlevoix, the Abbé Queylus returned with the deputies of the Seminary of St. Sulpice to take possession of the Island of Montreal and found a Seminary there. By the French law it is clear that no persons, aliens, not being naturalized, can hold lands; so that by the right of conquest, agreeable to M. Lotbiniere's own idea, for want of owners domiciled at the time of the conquest, these estates may be understood in point of law to be fallen to the Crown in point of sovereignty."

The following are notes taken by Mr. H. Black (afterwards Judge of the Admiralty Court in Quebec,) of an address by Sir James Stuart, who appeared in the Court of Appeal in Quebec, to sustain the cause of a Mr. Fleming against the Seminary of St. Sulpice:—

It appears that Mr. Fleming had built a mill on the seigniori of Montreal, and because of which the Seminary, assuming to be its seigniors, took action against him. The case was carried

against Mr. Fleming in the Lower Court, and because of which he appealed. In the appeal Sir James Stuart appeared as his advocate. The Hon. Judge Sewell was the presiding Judge on the occasion when it was that he said, *that although the Seminary could plead possession, they could not do so as proprietors.* The appeal was decided in Mr. Fleming's favor.

"Mr. Stuart for the appellant," says Mr. Black, "after stating the facts of the case, said, 'The first head of defence is brought under consideration of the court by a plea of peremptory exception and involves the existence of the Seminary at Montreal. The second plea is the non-joinder of all the parties if the action be brought by plaintiffs in their natural capacity; the third, the General Issue. To these pleas seven different answers have been filed which substantially reduce themselves to one general proposition, viz: a possession of 140 years, and consequently qualified to assume corporate powers.

True they allege that they have been constituted by *lawful authority*; but under the pleading offered by the defendants the questions in the first place are: 1. Whether they give a sufficient answer. 2. Whether they could show a legal existence under such a plea. 3. Whether they have proved such title. And 4. Whether even if Letters Patent had been pleaded from posterior circumstances they can constitute a legal authority. Under every form of government in civilized countries, secular authority is necessary to the erection of corporations. Under the Roman law, L. 3. 3. 1 ff. di colleg., & corp. & L. 1. ff. quod. cuj. un. nom.—In France Domat vol. 2. p. 9., liv. 2. sect. 2., art. 14, p. 75-76. Ibid. liv. 1. tit. 15. Sect. 1. art. 1. ibid p. 77. art. 2, art. 5, art. 6. Novo. Den. v. corps. vol. 5, p. 581. § 1. No. 1. Ibid § 11. No. 4, see the case here cited—Ibid verbo *Communauté Ecclesiastique*. Vol. 4, p. 743. § 1. No. 1. Corporations then must be established by supreme authority, without letters patent, no possession, however long, however peaceable, sufficient. That principle established, distinctive of every thing pleaded. For but one solitary fact pleaded—possession of 140 years the other statement—*legally constituted* is an inference or deduction which amounts to nothing. In every country where regular administrative justice obtains the facts must be stated in the pleadings and not arguments or inferences. Not easy to support general propositions by reference to French authorities—but 1 Chitty. p. 216, is an authority in point. If the Seminary after pleading their possession had then set forth the letters patent it would have been competent to defendant to allege grounds to nullify them; but as a general rule of pleading the title upon which a party relies must of necessity be set forth. If otherwise—not proved.

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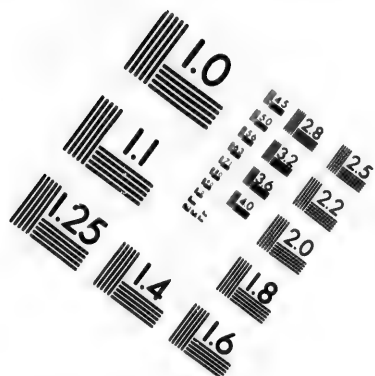
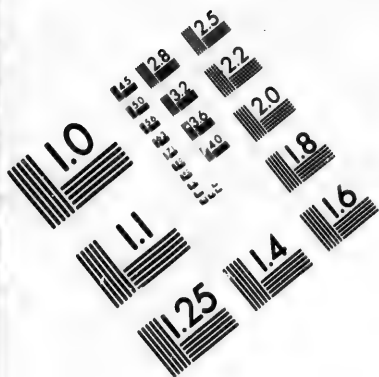
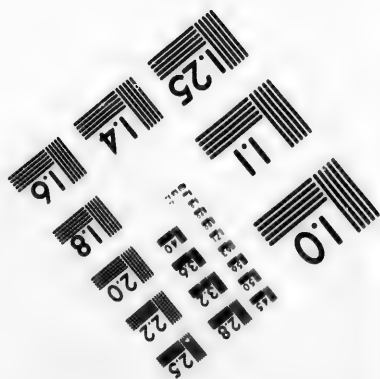
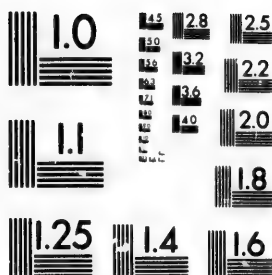


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so of private acts. Reason of this rule—p. 1., Evce. 238, 306 3. ed. But if the letters patent had been proved they could not confer the corporate capacity which the plaintiffs have thought proper to assume.

The Council of Trent enjoined bishops to provide funds, by a kind of contribution from certain sources, for the education of children. In this manner were established *Diocesan* Seminaries, and Seminaries to prepare young men for foreign Missions, and afford an asylum for superannuated clergymen. Diet Canonique Tit. Seminaire, p. 277 & 8. Memoires du Clergé Tom, 2. p. 555 & 562. Rep. de. Miss. Verb. Seminaire, p. 54. Distinction between *Diocesan* Seminaries and Seminary at Montreal marked even in the manner in which the Seminary at Montreal is constituted. The appointment of the bishop was always confirmed by letters patent of the King superadded to it. Thus the Seminary at Quebec was established by Episcopal authority in the first instance, and afterwards confirmed by Royal authority. Edits & Ord. 1. p. 25. The Seminary at Montreal is an establishment of the St. Sulpicians of Paris, to whom the seigniority of Montreal was originally granted. Now nothing is more certain than that the sovereign authority is necessary for a corporation existing in one province to acquire property in another. Novo. Den. Verb. corps., p. 587. The object of the letters patent of 1677 was to authorize the St. Sulpicians at Paris to acquire property in Canada, and not to create an independent body. *Nous leur avons permis—to whom? St. Sulpicians at Paris. Voulons qu' elle soit unie à perpétuité à leur société.* What society? That of Paris, of course. *Pour en jouir—by whom? Par eux et leurs successeurs—au dit—séminaire et communanté.* Edits and Ord. 1. p. 80. The language of the Letters Patent always imputing that they shall have perpetual succession it is evident that no new establishment was intended, but merely a permission according to the public law of France to acquire property in Canada.

The whole of the occurrences upon the conquest demonstrate that it was so. But if the corporation were regularly constituted even if it were an independent existing body—now is it possible from circumstances that have occurred that it can still continue to be so? Every body politic is an emanation of the Royal authority; and every branch of the political authority of the King of France was by the law of nations subverted and destroyed upon the conquest of the country although the laws and customs of the conquered country subsisted until the pleasure of the conqueror was declared. In *Viners Abi.* Title, conquest, there is a distinct authority in which this obvious principle of the law of nations is recognized. There is another principle applicable to this case, and considering the known clemency of Great Britain

it contains nothing that ought to excite apprehension in the mind of the most zealous Catholic. For the perfect security and ease of the minds of the inhabitants of this province it is declared by 14 Geo. III., c. 83, s. 5, that His Majesty's subjects professing the religion of the Church of Rome may have, hold and enjoy the free exercise of the same, *subject to the King's supremacy*, declared and established by an Act made in the first year of Queen Elizabeth, over all the dominions or countries which then did or thereafter should belong to the Imperial Crown of the realm of Great Britain. The generosity and justice of the British Government then secured to Roman Catholics the free exercise of their religion, but subject to the King's supremacy, and the operation of that principle to the extinction of all ecclesiastical institutions depending upon papal authority, (See 1 Eliz. I., preamble & S. 16.) It may be asked, How were other institutions permitted to exist? The capitulation and treaty had secured the free exercise of religion, but had not secured any temporal right to the inhabitants of the Province. The principle adverted to was therefore in no way controlled either by capitulation or the treaty. (27th Art. of the Cap.—and 4th Art. of the Definitive Treaty of Peace.)

Between the period of the capitulation and the art. of 1774, the Curates were not entitled to any legal right which now belongs to them. But that act not only secured to them the free exercise of their religion but also to the clergy the enjoyment of their accustomed dues and rights. With respect to the Seminary of Montreal, there exists nothing by which it is discriminated from other bodies—on the contrary, by the 32nd Art. of the Cap. they are preserved in their constitutions and privileges, but in the very next Art. when it is asked that the preceding Art. shall likewise be executed with regard to the priests of St. Sulpice at Montreal, the answer is, "*Refused, till the King's pleasure be known.*" Nor was it necessary or consistent that the same liberality should be extended to the Seminary at Montreal. It was inconsistent with the King's supremacy and the public law of the land, and therefore it was extinguished immediately on the conquest.

Its very condition contained the seeds of its own dissolution, for by one of the rules of the foundation its members must necessarily be members of the society at Paris, and the effect of the conquest was to cut off all intercourse between these bodies; and the Seminary at Montreal was dissolved upon the death of the last member, because his place could no longer be supplied by the members of that body which according to the original foundation could alone furnish them. These grounds are sufficient to show that the plea in abatement should have been maintained—no principle more plain than that a person coming into a court

of justice must have a legal ability to maintain his action. The cases in the *Novo. Den. Verb. corps*, p. 587, and following pages, and more particularly the case of the *Oratoire*, establish that a party may avail himself under such a plea of any disability arising from the want of a legal corporate capacity in the plaintiffs. With respect to English pleading, it not only belongs to a defendant to plead the illegality of the existence of a corporation, but the corporation itself is bound to prove its existence, (*Kyd. on Corporations* p. 291). Mr. Stuart also objected that the action ought to have been brought by the Seminary in their corporate name. Upon the merits he said that there were two grounds of argument—first, that the diction did not set forth a legal ground of action, and secondly, neither the law nor the fact justified the judgment given by the court below. The action is brought upon the supposition that the right of *Benalité* is inherent in every seignior. *Novo. Den. Tit. Benalité* and *Rep. de Suo Eod*, tit, establish incontrovertibly that it is not an attribute of the seignior. It rests solely upon the arrêt of 1686. *Edits & Ord.* I. p. 266. Upon perusal of that arrêt the motive of it appears to have been the poverty of the inhabitants, and to furnish an inducement to seigniors to erect mills within the Province. This arrêt created a new right in favor of seigniors, but restricted it to such as built their mills within a year and a day from the publication of it. And even upon a literal construction of the arrêt in question all mills became *Bannaux* in the persons who have erected them though not seigniors. If it be competent to the Seminary to recover in this instance, seigniors may recover, generally, even when they have no mills, or, when their mills are in such a state as to be inadequate to the wants of the tenants. But if otherwise, and that they were entitled to a judgment, general rules of justice point the redress for an injury done. The Seminary not only require the redress afforded by the strictest rules of expletive justice, but that they may be permitted to demolish the mill. Why should the defendant not have it in his power to convert it to other purposes? Besides it is by no means a settled point that complaints can be maintained for a disturbance in the right of *Benalité*.—See the case of Abbé Ozanne in the *Novo. Den.* vol. 3, p. 152.

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